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Presented to Parliament pursuant to Section 3(5)(b) of Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020

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# REPORT IN RELATION TO LEGAL ROUTES FROM THE EU FOR PROTECTION CLAIMANTS, INCLUDING FAMILY REUNION OF UNACCOMPANIED CHILDREN

1. This report discharges the government's statutory duty under paragraph 3(5)(b) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (the Act).
2. During the passage of the Act, a statutory obligation to review legal routes to the UK from the European Union (EU) for protection claimants, including publicly consulting on the family reunion of unaccompanied asylum-seeking children (UASC), was passed, as set out in Section 3 of the Act, specifically to:
  - a) conduct a review of legal routes by which protection claimants who are in the EU can enter the UK – including for family reunion of unaccompanied asylum-seeking children;
  - b) publicly consult on legal routes for family reunion for unaccompanied asylum-seeking children in the EU;
  - c) lay a statement providing further details of the aforementioned review and consultation before Parliament, within three months of the Act achieving Royal Assent;
  - d) after the review, prepare a report on the outcome of the review or arrange for such a report to be prepared, and publish the report and lay it before Parliament.

During the passage of the Act in Parliament, the government also committed to conduct a global review of safe and legal routes to the UK for asylum seekers, refugees and their families which went beyond those who are in the EU, to reflect the new global approach to the immigration system and the fact the Act was limited to EU-related provisions.

3. The government laid a statement in Parliament providing further details of the review and consultation on 8 February 2021, as required under Section 3(4) of the Act. <https://www.gov.uk/government/publications/statement-in-relation-to-legal-routes-from-the-eu-for-protection-claimants-including-family-reunion-of-unaccompanied-children>
4. Between 24 March and 6 May 2021, the government undertook a comprehensive and extensive public consultation on the New Plan for Immigration, which set out the proposals to build a fair but firm asylum system and to deter illegal entry into the UK system. This consultation included looking at our future approach on safe

and legal routes, including publicly consulting on legal routes for family reunion for unaccompanied asylum-seeking children in the EU, as required under Section 3(3) of the Act.

5. The government has now completed its review of safe and legal routes open to those who need protection. In line with the United Kingdom's obligations under Section 3 of the Act, this review covered legal routes by which protection claimants who are in the EU can enter the UK, including for unaccompanied asylum-seeking children in the EU to reunite with family members, but went beyond those who are in the EU, reflecting our new global approach to the immigration system. It also included our future approach to resettlement.
6. To comply with our statutory duties after the review under Section 3(5)(b) of the Act, the government has prepared this Act paper to set out the outcome of the review. The Act paper is being published and laid before Parliament today, and this fully discharges our remaining statutory commitments under Section 3 of the Act.
7. The overarching government response to the New Plan for Immigration consultation is also being published in Parliament today as a Command paper.

Ambitions for supporting vulnerable refugees from around the globe within the New Plan for Immigration

8. The New Plan for Immigration sets out the government's ambitions to help those facing persecution, oppression and tyranny by standing by our moral and legal obligations to help innocent civilians from around the world fleeing cruelty. In that plan, we proposed:
  - maintaining our long-term commitment to resettle refugees from around the globe, including ensuring persecuted minorities are represented;
  - ensuring resettlement schemes are responsive to emerging international crises – so refugees at immediate risk can be resettled more quickly;
  - working to ensure more resettled refugees can enter the UK through community sponsorship, encouraging stronger partnerships between local government and community groups;

- granting resettled refugees immediate indefinite leave to remain on arrival in the UK so that they benefit from full rights and entitlements when they arrive;
- reviewing the refugee family reunion routes available to refugees who have arrived through safe and legal routes;
- introducing a new means for the Home Secretary to help people in extreme need of safety whilst still in their country of origin in life-threatening circumstances;
- enhancing support provided to refugees to help them integrate into UK society and become self-sufficient more quickly; and
- reviewing support for refugees to access employment in the UK through our points-based immigration system where they qualify.

#### What we heard from the consultation

9. Feedback from the consultation has indicated broad support for these reforms on safe and legal routes, with respondents noting that these proposals are likely to be effective in ensuring the government can provide safe and legal routes for refugees in genuine need of protection to come to the UK. Reviewing support for refugees to access employment through the points-based system received mixed responses, with concerns raised about whether this would displace those welcomed through refugee resettlement. Responses on reviewing refugee family reunion rights for those who have arrived through safe and legal routes focused on the need for clarity on the government's approach, with support for enhancing refugee family reunion rights.
10. Participants with experience of the UK asylum system raised the point that for people fleeing persecution, oppression or tyranny, 'legal' routes are often inaccessible. They indicated that more thought should be given to why people were fleeing rather than how they arrived. They felt that people who are being persecuted do not have time to research the safe and legal routes into a particular country.
11. Stakeholders expressed positive sentiment towards resettlement routes being included in the Plan, but requested more information on the way that resettlement would operate and pushed for numerical targets around the scale of the government's commitment. There were concerns that if refugees were selected for resettlement on the basis of their potential to integrate, this could undermine the humanitarian focus of resettlement to help those most in need. Respondents considered that the proposals were likely to have some equalities impacts, in particular around the accessibility of safe and legal routes to women and children.

Participants, who had themselves fled persecution, noted that resettlement is not a viable route for most asylum seekers, likening the opportunity to enter the UK through the scheme to 'winning the lottery'.

12. Consultation respondents expressed a need for further clarity around how the proposal to support people in extreme need of safety whilst still in their country of origin would work in practice. In focus groups, there was broad support for helping those in extreme need, but confusion around the intention of the proposal.
13. Stakeholders welcomed the commitment to the additional £14 million for the Refugee Transitions Outcomes Fund. There was also broad support for the proposed integration package, which is seen to focus on the right areas. However, it was felt that this should also be available to those granted temporary protection. There was strong support for a package that supports self-sufficiency and that focuses on employment and English Language skills, as well as considering elements such as wellbeing and social bonds. There was support for this being delivered at a local level whilst adhering to national standards, allowing a tailored approach. Stakeholders also reflected on the need to consider wider system-type issues, such as access to bank accounts and mainstream services' understanding of refugees.

#### Family reunion rights

14. Stakeholders clearly expressed that family reunion rights are an important pathway to the United Kingdom and public focus group participants supported enhancing this route, but both called for more information on scale and for clarity on what 'reviewing' rights would involve. Stakeholders were concerned that, if the overall reforms limit the number of refugees being granted asylum in the UK, there will be fewer individuals who could sponsor family members via family reunion. Members of the public provided a mixed response to the effectiveness of the proposal in the questionnaire.
15. On unaccompanied asylum-seeking children (UASC), there was broad support in the consultation for reuniting children with family members in the UK, but less clarity (given mixed views) on whether we should apply the same policy approach regardless of where the UASC was located. When prompted in public focus groups and the stakeholder deep dives, participants expected to see all children treated equally, regardless of whether they are travelling from the EU or outside the EU to reunite with family members in the UK.
16. A key theme from stakeholders in the consultation was a concern that the UK Immigration Rules relating to family reunion were more restrictive than the Dublin III Regulation – the EU law which the UK ceased to participate in following the end of the Transition Period. Stakeholders referenced a number of issues they

consider to be barriers to accessing these Rules, including fees, financial requirements and evidential thresholds.

17. In public focus groups, members of the public who supported UASC family reunion were keen for any process to be accessible, transparent, quick and efficient, while others called for balances, including ensuring family members in the UK are self-sufficient, definitions of 'close' family (i.e., that a child needs to know the relatives they are joining), and background checks on sponsors to ensure the safety of children once they come to the UK.

18. Further summary details on the responses to the public consultation under Section 3 of the Act are set out at Annex A of this document.

Our response to the consultation and outcome of the safe and legal routes review

19. The United Kingdom wants to be bold and ambitious in the safe and legal routes it provides. We recognise the stakeholders' request that we set a numerical target. However, it is vital that we take account of wider pressures on housing and local services, including the impact of supporting those who seek asylum through illegal entry and do not have a genuine need for protection.

20. We want to strengthen safe and legal routes. To achieve this ambition, it is important that we, in parallel, take firm measures to reduce unmeritorious asylum claims via irregular routes.

Refugee resettlement

21. As part of our long-term commitment to refugee resettlement, as the UK's primary safe and legal route for those in need of protection, we will strengthen it by:

- continuing the UK Resettlement Scheme and broadening its reach by ensuring access for a wider range of refugees;
- improving integration outcomes for the benefit of refugees and UK communities;
- giving community groups greater freedoms to welcome and support refugees in their local communities.

22. We will continue to work with UNHCR to ensure our resettlement schemes are accessible and fair, resettling refugees from countries where the need is greatest. We will ensure a broad range of those in need of resettlement can access it, including groups such as persecuted Christians. We will pilot an Emergency Resettlement Mechanism, starting in Autumn 2021, that will enable refugees in urgent need to be resettled more quickly, so that life-saving protection is provided in weeks rather than months.

23. To support the integration of those we welcome, this year we will begin granting Indefinite Leave to Remain (ILR) to refugees resettled through the UK Resettlement Scheme and Community Sponsorship Scheme immediately upon arrival in the UK. Refugees resettled through those schemes since March this year will also be able to apply to receive ILR. We recognise the concern around the proposal to consider integration potential when selecting refugees for resettlement. We will continue to resettle those refugees identified by the UNHCR as in need of resettlement, and we will work with UNHCR to ensure that refugees referred to the UK for resettlement have the best chance of thriving in the UK. We will take particular care to ensure that there are no unintended consequences related to access for refugees with protected characteristics, such as women and children.

24. We have heard the strong support for the government's plans to grow the Community Sponsorship Scheme and we will continue to engage with community groups and civil society to identify how we can best give communities that want to directly resettle refugees the ability to do so.

#### Humanitarian routes

25. We will provide more flexibility to help people in truly exceptional and compelling circumstances by using the Home Secretary's discretion to provide assistance.

26. We recognise there may be circumstances whereby an individual faces imminent danger whilst still in their country of origin, and therefore is not eligible for our refugee resettlement programmes. Section 3 of the Immigration Act 1971 enables the Home Secretary to use discretion to grant leave outside the rules (LOTR). This means, for example, that for those with very exceptional personal circumstances, the Home Secretary would be able to act rapidly to allow a limited number of individuals to come to the UK. As with any other exercise of discretion, decisions will be applied consistently and objectively. We recognise the need for additional clarity and will set out more details in due course.

#### Support for refugee integration

27. We are fully committed to ensuring that refugees can take positive steps towards integration as they rebuild their lives in the UK. The details of the enhanced integration package, which will include enhanced employment and English Language support, are currently being developed in collaboration with stakeholders and other government departments. Working with civil society, businesses and local authorities will continue to be key to achieving our goals on refugee integration; and we are ensuring our approach is informed by the experiences of refugees.

## Access to work for refugees in the UK

28. We intend to commence a pilot in Autumn 2021 which aims to support access to work visas for highly skilled displaced people. In response to concerns raised in some consultation responses, we can be clear that this is in addition to, and not instead of, our other safe and legal routes.

## Family reunion rights

29. We do not consider that we should adopt a more favourable approach to family reunion in the Immigration Rules for UASC in the EU than for UASC or any other children in the rest of the world. We consider that a single global approach for family reunion entry clearance applications is fair and does not encourage children to make what are often dangerous journeys into Europe. European member states have international obligations towards protecting children like we do here in the UK, affording UASC in Europe the opportunity to access the rights to which they are entitled. Moreover, in 2019 the UK received the most asylum applications from unaccompanied children in the EU, accounting for approximately 20% of all reported claims from unaccompanied asylum-seeking children made in the UK and the EU Member States. The UK was second only to Greece for UASC asylum claims in 2020. According to the most recent published statistics, there are 5,000 unaccompanied children being cared for in England alone – which represents a significant increase of 143% since before the migration crisis in 2014. However, we have not ruled out future bilateral agreements on UASC family reunion, but they are dependent on a number of factors.

30. Overall, we consider the case has not been made for the government to adopt a different approach in relation to fees, financial requirements and the need to meet relevant evidence thresholds for children, including UASC seeking to join non-parent refugee relatives in the UK.

31. We have considered the current application of these rules in a global immigration system and believe that removing these requirements for cases currently considered under paragraph 319X of the Rules is likely to have unintended consequences. Where a UK sponsor could not house the child, this would place burdens on local authorities, including those who are under significant pressure from small boat arrivals. Like some members of the public, we think it is right to have checks and balances on family reunion. We think this is essential to ensure the child actually needs to come to the UK and that they are not entering an exploitative situation.

32. Dublin transfer numbers were relatively low for non-parent reunions for UASC, as they were from a limited geographical area in a state-to-state system. However, applying the stakeholders' recommended approach to the Immigration Rules globally would make intake uncertain. We consider this has the potential to attract

a very high number of applications if the only requirement were to evidence a relevant family link for any child in the world with a refugee relative in the UK. We think it remains important for children seeking to join a non-parent relative that there are serious and compelling circumstances to warrant the reunion. As well as going beyond our international obligations, we think these changes would swing the pendulum too far in applying aspects of a state-to-state asylum transfer mechanism like Dublin III to a global visa application system. Overall, our approach is aligned with the feedback from some members of the public on checks and balances for UASC family reunion.

33. We have carefully considered the extent of the UK's legal obligations, including under Article 8 of the European Convention on Human Rights (ECHR), and we consider that our existing refugee family reunion policy is compliant with those obligations. Those obligations do not require us to facilitate all family reunions. We have a range of legitimate aims in this area, including ensuring that we have reasonable control of immigration and that public services, such as schools, are not placed under unreasonable pressure. However, we recognise that some applicants do not meet the current Rules, but in some cases there will be exceptional circumstances which warrant a grant of leave. To strengthen our existing policy, we will provide additional clarity in the Immigration Rules on the exceptional circumstances where we would grant leave to a child seeking to join a relative in the UK. In doing so, we will carefully consider a range of scenarios we see now, or might expect to see in the future, so that our decision-makers have the right tools to make consistent decisions, and child applicants will have greater transparency on how applications will be assessed. It also remains our position that an asylum seeker in the UK cannot sponsor a relative under UK Immigration Rules.
34. We also want to restate the importance of evidencing family links if a UASC wants to be reunited with family in the UK. While we acknowledge this may be challenging for some applicants, we do not agree that moving to a position requested by some stakeholders to lower evidence requirements to demonstrate family links is the right approach; it is vitally important we maintain integrity of the family reunion rules and take decisive action to prevent abuse.
35. With regards to our commitment to consider the case for amending the Immigration Rules to allow unmarried dependent children under the age of 21 to join their refugee parents in the UK, the government has decided not to pursue this option. The current family reunion policy has welcomed over 29,000 individuals to the UK in the last five years alone, highlighting its effectiveness as a safe and legal route for the immediate family of refugees in the UK. We are clear that there is discretion to grant visas outside the Immigration Rules, which caters for extended family members in exceptional circumstances – including young adult sons or daughters who are dependent on family here and living in

dangerous situations, and we will continue to use this discretion, as appropriate, for adult dependent children.

36. Work is also continuing to consider concerns raised by the British Red Cross in their report, 'The Long Road to Reunion', about access to visa application centres and the ability of family reunion visa applicants to provide biometrics.

37. Though we have completed our statutory commitment under the Act, we will now continue our programme of work around safe and legal routes. We remain committed to the principle of family unity and to supporting vulnerable children. The New Plan for Immigration made clear, we will continue to provide safe refuge to those in need – strengthening support for those arriving through safe and legal routes, and our report to Parliament today confirms this ongoing commitment.

**Home Office, 22 July 2021**

## Annex A: Summary of responses from the New Plan for Immigration consultation on the future approach to safe and legal routes

This annex provides Parliament with a summary of the key themes raised about safe and legal routes from consultation with stakeholders via themed roundtable-style 'deep dives' and detailed technical engagement, and public and stakeholder responses to the online questionnaire, collected as part of the consultation exercise that ran between 24 March and 6 May. It is not intended to fully represent all views expressed and does not cover all extensive engagement undertaken. In interpreting the findings, it is important to note that, while the consultation questionnaire was open to everyone, participants were self-selecting. More details on the consultation process and methodology can be found in the government's response to the consultation, published as a separate Command paper, but responses should not be viewed as being representative of the public and stakeholder population as a whole.

### Refugee resettlement

- Stakeholder and public respondents to the consultation questionnaire expected the proposals to be effective in ensuring the government can provide safe and legal routes to the UK for refugees in need of protection. This includes:
  - increasing the accessibility of UK resettlement schemes;
  - introducing an emergency resettlement mechanism;
  - granting indefinite leave to remain on arrival to resettled refugees; and
  - increasing the scale of Community Sponsorship and the tailored package of integration support.
  
- However, respondents raised concerns that:
  - without a numerical commitment to safe and legal routes there is no assurance that the government will maintain effective safe and legal protection routes, and the lack of clarity will prevent the long-term investment in the infrastructure and services necessary to support good integration outcomes;
  - refugee resettlement should retain its strong humanitarian focus on helping those most in need and selection should not be primarily on the basis of refugees' potential to integrate in the UK;
  - resettlement is not always accessible to people in need of protection, and some of the intended reforms may make resettlement less accessible for those with protected characteristics.

## Humanitarian routes

- A majority of stakeholders and the public considered that introducing a new means for the Home Secretary to help people in extreme need of safety would be effective. However, stakeholders and focus groups highlighted the need for additional clarity around the proposal, as it was interpreted as a means to provide in-country support to people rather than enable them to travel to the UK.
- Public respondents expressed support for reforms intended to establish a specific humanitarian visa in order to enable safer and fairer asylum-seeking processes.

## Refugee integration

- Stakeholders welcomed the commitment to the additional £14 million for the Refugee Transitions Outcomes Fund. There was also broad support for the proposed integration package, which is seen to focus on the right areas. However, it was felt that this should also be available to those granted temporary protection.
- There was strong support for a package that supports self-sufficiency and that focuses on employment and English language skills, as well as considering elements such as wellbeing and social bonds. There is support for this being delivered at a local level while adhering to national standards, allowing a tailored approach.

## Access to work for refugees in the UK

- Stakeholders thought the proposal for reviewing the support provided to refugees to access employment through the points-based immigration system was less likely to be effective. There were concerns that this would prioritise employment potential over humanitarian need, and this could lead to fewer vulnerable refugees being resettled.

## Family reunion, including unaccompanied asylum-seeking children

### *1.) Family reunion*

- There were high levels of support for reuniting an adult with refugee status with close family members – especially their own children under the age of 18.
- The vast majority of stakeholders (93%) and members of the public (75%) who submitted a response to the consultation questionnaire said that reuniting an adult with refugee status in the UK with their own child under the age of 18 was important.
- A majority of respondents also said family reunion for other close family members was important.

## 2.) UASC family reunion

- When prompted on UASC family reunion specifically, public focus group participants agreed that unaccompanied asylum-seeking children should be reunited with their family member(s) in the UK, where possible.
- There were mixed responses to the proposed approach of applying the same policy to protection claimants seeking to join family members in the UK, regardless of where they are. Members of the public who responded to the consultation questionnaire are as likely to agree as disagree with this approach, while just over half (51%) of stakeholders disagree.
- Stakeholders raised concerns that UK Immigration Rules are more restrictive than Dublin III.
- In the deep dive on the future approach, and in open text responses submitted to the consultation questionnaire, stakeholders raised concerns about the impact of the UK leaving the EU and the removal of Dublin III on safe and legal routes for UASC in the EU wanting to reunite with family members in the UK.
- However, when prompted in public focus groups and the stakeholder deep dive, participants expected to see all children treated equally, regardless of whether they are travelling from the EU or outside the EU to reunite with family members in the UK.
- In the deep dive, stakeholders advocated for increasing eligibility in line with Dublin III by bringing paragraph 319X in Part 11 of the Immigration Rules, removing financial requirements for sponsors, and lowering the evidence threshold, including on demonstrating family links.
- In focus groups, ensuring accessibility of family reunion for UASC was prioritised by some, while others called for balances, including ensuring family members in the UK are self-sufficient, definitions on 'close' family (i.e., that a child needs to know the relatives they are joining), and background checks on sponsors to ensure the safety of children once they come to the UK.

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