



## DEBATE PACK

Number CDP-0157, 19 June 2019

# Debate on a Motion on Refugee Family Reunion

By Hannah Wilkins and  
Sally Lipscombe  
Maria Lalic

## Summary

A Backbench Business debate on a Motion on refugee family reunion is scheduled in the Chamber on Thursday 20 June 2019. The debate is sponsored by Angus MacNeil MP.

20 June 2019 is World Refugee Day.

## Contents

|           |   |          |
|-----------|---|----------|
| <b>1.</b> | <b>Refuge family reunion<br/>law and policy</b> | <b>2</b> |
| 1.1       | Private Members' Bills                          | 3        |
| 1.2       | Legal aid                                       | 3        |
| <b>2.</b> | <b>Media</b>                                    | <b>6</b> |
| 2.1       | Articles and blogs                              | 6        |
| <b>3.</b> | <b>Parliamentary<br/>Business</b>               | <b>7</b> |
| 3.1       | Debates   | 7        |
| 3.2       | Parliamentary Questions                         | 7        |
| <b>4.</b> | <b>Further reading</b>                          | <b>8</b> |

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

# 1. Refuge family reunion law and policy

The Immigration Rules on refugee family reunion only cater for a refugee's 'pre-flight' partner and dependent children (under 18), and do not allow unaccompanied refugee children to sponsor applications from family members. The Home Affairs Select Committee stated:

The Refugee Council has drawn our attention to the different treatment of adult and child refugees under the family reunion rules. Children who have travelled to the UK and who have been granted refugee status are not allowed to bring their close family to join them despite having gone through the asylum system in the same way as an adult.

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. The Government should amend the immigration rules to allow refugee children to act as sponsors for their close family.<sup>1</sup>

Refugee family reunion visas are issued free of charge and are exempt from some of the eligibility criteria that usually apply to family visa applications. However the application process and evidential requirements that remain have been criticised, including by the Home Affairs Select Committee, for posing 'unacceptable bureaucratic hurdles'.

Other relations, such as dependent adult relatives, adopted children, and 'post-flight' family members, are subject to different visa rules. Significant application fees and more restrictive eligibility criteria usually apply, such as maintenance funds and knowledge of English.

Home Office policy guidance confirms that there is also scope to grant leave "outside the Immigration Rules" in other exceptional scenarios. This might apply, for example, in order to facilitate the entry of a dependent child over 18, or an unaccompanied child with a close relative in the UK. But campaigners argue that these applicants would have greater certainty and superior rights in the UK if their cases were covered by the Immigration Rules rather than policy guidance.

The Government is concerned that more generous rules, including allowing child refugees to sponsor applications, might act as a pull factor for asylum seekers to come to the UK and put children at greater risk of trafficking. In an article in *The Times* the Minister of State for Immigration Caroline Nokes stated:

Widening the remit of the family reunion policy in the way suggested has the real and dangerous potential of creating a perverse incentive for people, particularly children, to have to

---

<sup>1</sup> Home Affairs Select Committee, *The work of the Immigration Directorates (Q1 2016)*, 27 July 2016, HC 151, Sixth report of session 2016-17, para 40-1

leave their families and risk perilous journeys, hoping relatives can join them later.

The tragic reality is that thousands of people have died trying to cross the Mediterranean, including hundreds of children.

Sadly many of those who do survive the journey can feel they have no choice but to put themselves into the hands of people traffickers who charge them thousands of pounds to smuggle them through Europe. We need to do everything we can to stop these journeys being made.<sup>2</sup>

For more in-depth information, see the Library briefing paper '[The UK's refugee family reunion rules: striking the right balance?](#)' (1 March 2018).

## 1.1 Private Members' Bills

Angus MacNeil MP of the SNP tabled a Private Member's Bill on refugee family reunion which had its Second Reading in the Commons on the 16 March 2018. The [Refugees \(Family Reunion\) \(No. 2\) Bill 2017-19](#) aims to extend the scope for family reunion of refugees in the United Kingdom so that unaccompanied minor refugees can sponsor close family members. It also aims to amend the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (commonly referred to as "LASPO") to bring such matters within the scope of legal aid.

The Bill received wide cross-party support at [Second Reading](#) with 129 MPs in support across the Conservative Party, the Labour Party, the Liberal Democrats, Plaid Cymru and the SNP. The Guardian reported:

The proposed legislation received overwhelming backing at its second reading in the Commons a year ago, but the passing of the bill has since stalled and under parliamentary rules that govern private members' bills, time is running out to pass it into law.<sup>3</sup>

There are usually 13 Fridays allocated with parliamentary time for the consideration of Private Members' bills. The House [agreed](#) 3 more days in this session on 30 January 2019. However, the last of these days was used on the 15 March 2019 and the Government is not obligated to provide any more.

A [letter urging action](#) on the Bill, dated 15 March 2019, was sent to the Home Secretary and signed by 66 MPs.

A similar Bill, the [Refugees \(Family Reunion Bill\) HL 2017-19](#), started in the Lords and is sponsored by Baroness Hamwee and Tim Farron MP. The Bill completed its stages in the House of Lords on 3 July 2018 and is awaiting Second Reading in the Commons on a date to be announced.

## 1.2 Legal aid

Family reunion applications (along with most other immigration matters) were removed from the scope of legal aid in England and Wales when

<sup>2</sup> '[Bill to reunite refugees with families will make their lives harder](#)', *The Times*, 16 March 2018

<sup>3</sup> '[Sajid Javid urged to act on refugee family reunification bill](#)', *The Guardian*, 15 March 2019

LASPO took effect in April 2013.<sup>4</sup> The then Government's justification for this was that these applications were straightforward to prepare.

Under LASPO, the general approach is that a matter is only within scope for legal aid if it is of a type listed in [Schedule 1 to LASPO](#).<sup>5</sup> If the case is not of a type listed in Schedule 1, then it will only be eligible for legal aid if it is an "exceptional case" under [section 10 of LASPO](#). Exceptional case funding is therefore currently the only way in which legal aid can be granted for family reunion applications.

In very brief terms, exceptional case funding involves the Director of Casework at the Legal Aid Agency determining that legal aid should be provided because failure to do so would be a breach of the individual's human rights, or any enforceable EU rights that the individual has to the provision of legal services. Full details of exceptional case funding are available on the [gov.uk website](#). The Public Law Project has also published [guidance on applying for exceptional case funding](#).

Since LASPO was introduced, campaigners have been arguing that legal aid should be reinstated for family reunion applications on the grounds that such applications can be time-consuming and complex. The [Children's Society](#), with support from [Islington Law Centre](#) and the [Migrant and Refugee Children's Law Unit](#) (MiCLU), initiated judicial review proceedings against the Government on the following grounds:

- Unaccompanied and separated children are extremely vulnerable, and their vulnerabilities are exacerbated by insecure immigration status
- The potential immigration processes and proceedings they face in an attempt to regularise their status in the UK are extremely complex, such that children cannot be expected to navigate them alone
- The consequences of failing or being unable to navigate these complex procedures are fundamental and life changing
- The ECF [exceptional case funding] scheme is an inadequate safeguard for this defined and narrow cohort<sup>6</sup>

In July 2018, prompted partly by the evidence presented as part of the judicial review case, the Government announced that it would be amending LASPO to bring "immigration matters for unaccompanied and separated children" back into scope for legal aid.<sup>7</sup> This commitment was repeated by the Government in its recent review of LASPO: see page 13 of [Legal Support: The Way Ahead - An action plan to deliver better support to people experiencing legal problems](#) (February 2019).

---

<sup>4</sup> Legal aid remains available for such applications in Scotland and Northern Ireland

<sup>5</sup> Schedule 1 does currently cover a handful of immigration matters, such as immigration detention and proceedings before the Special Immigration Appeal Commission

<sup>6</sup> MiCLU, [Case note: The Queen on the application of The Children's Society v The Lord Chancellor](#), 29 August 2018

<sup>7</sup> [HCWS853, Justice Update](#), 12 July 2018

This change will need to be made by way of statutory instrument to amend Schedule 1 to LASPO. In response to a PQ in April 2019, Justice minister Lucy Frazer said that subject to parliamentary time a statutory instrument to bring non-asylum immigration matters for separated migrant children into the scope of legal aid would be laid “in the coming months”.<sup>8</sup>

Until the necessary statutory instrument has been made, exceptional case funding remains the only route for legal aid in such cases. The Ministry of Justice has therefore issued [interim guidance to Legal Aid Agency caseworkers](#) to assist them in determining exceptional case funding applications in the meantime.

This guidance says caseworkers should operate on the basis that there is “a strong presumption that under Article 8 of the European Convention on Human Rights unaccompanied or separated children (children under the age of 18 who have been separated from both parents) require legal aid in relation to non-asylum matters”. Applications in such cases need not be supported by detailed evidence in relation to issues relating to vulnerability and ability to participate in proceedings without legal aid, as this will be presumed.<sup>9</sup>

---

<sup>8</sup> [PQ 244118 \[on Asylum: Children\]](#), 23 April 2019

<sup>9</sup> Letter from Ministry of Justice to Children’s Society, [Legal Aid for Immigration Matters for Unaccompanied Children](#), 26 July 2018

## 2. Media

### 2.1 Articles and blogs

Guardian

[Sajid Javid urged to act on refugee family reunification bill](#)

15 March 2019

Guardian

[Ministers urged to relax immigration rules on family reunions](#)

04 February 2019

Politics.co.uk

[We defeated the govt over child refugees - now they should back down.](#) *By Tim Farron*

19 March 2018

Amnesty International UK blog

[Refugee Family Reunion Bill being blocked by the Government?](#)

18 September 2018

Times

[Bill to reunite refugees with families will make their lives harder.](#) *By Caroline Nokes*

16 March 2018

The Herald

[SNP MP Angus Brendan MacNeil makes parliamentary bid to end "grievous injustice" for Syrian refugees](#)

16 March 2018

Amnesty International

[Private Members' Bill – Refugee Family Reunion](#)

March 2018

## 3. Parliamentary Business

### 3.1 Debates

[Refugee Family Reunion](#)

HC Deb, 21 June 2018, cc521-555

[Refugees \(Family Reunion\) \(No.2\) Bill](#)

HC Deb, 16 March 2018, cc1113-1169

[Refugees \(Family Reunion\) Bill \[HL\]](#)

HL Deb, Committee stage, 11 May 2018, cc360-375

[Refugees \(Family Reunion\) Bill \[HL\]](#)

HL Deb, 15 December 2017, cc 763-1786

### 3.2 Parliamentary Questions

[Refugee Family Reunion](#)

HoC Deb, oral answers to questions, cc389-390, 10 June 2019

## 4. Further reading

Oxfam and Refugee Council, [Safe but not settled: The impact of family separation on refugees in the UK](#), 31 January 2018

Liberal Democrats, [Refugees \(Family Reunion\) Bill](#), by Baroness Hamwee, 27 July 2018

Refugee Council, [Briefing: Refugee Family Reunion \(Backbench Business Debate\)](#), June 2018

Refugee Council, [Refugee Council briefing on Refugee Family Union, Immigration Bill, Report Stage in the House of Lords](#), March 2016

House of Lords Library, [Refugees \(Family Reunion\) Bill \[HL\]: Briefing for Lords Stages](#), 11 December 2017



### About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email [hcinfo@parliament.uk](mailto:hcinfo@parliament.uk).

### Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).