



Photo: Pablo Tosco / Oxfam

Refugee family reunion in Wales **what can we do?**

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Introduction

The world is currently facing one of the greatest displacement crises. In 2016, forced displacement reached a record high. More than 65 million people¹ – half of them children – have been forced from their homes due to conflict, violence and persecution.

Forced migration separates families. It wrenches children from their parents and grandparents, divides siblings, forces partners to live apart, and destroys extended family networks. While international law states that families are entitled to protection², displacement and flight are forcing them apart, further compounding their suffering.

Refugee family reunion is often the only way to ensure that a refugee's right to family unity can be realised. Not only is refugee family reunion a way to reunite divided families but it is also a tool that governments can use to offer refugees a safe and legal way to escape danger, and access protection from conflict in countries such as Syria, Sudan and Afghanistan.

The UK's Immigration Rules are an important part of the picture on family reunion, and key to ensuring people do not have to make dangerous journeys to Europe. Part 11 of the UK's Immigration Rules³ states that adults granted refugee leave or humanitarian protection in the UK are entitled to sponsor their close family members to come and live with them here.⁴ However, there are a number of restrictions on which family members qualify for such refugee family reunion. For adult refugees in the UK, only partners⁵ and dependent children under the age of 18 who were part of the family unit before the refugee fled will usually come under the definition of 'family'. The rules have the capacity to be somewhat flexible: in exceptional circumstances, other relatives may be granted leave outside the rules at the discretion of the Home Office. However, the trend in recent years

has been for fewer family reunion visas to be granted outside the rules. From January to September, only 49 visas were issued outside the immigration rules in refugee family reunion cases.⁶ Restrictions on the granting of visas to applicants from refugee-producing countries are a major contributing factor to the separation of refugee families.

Many of those applying for family reunion are from war-torn countries. The narrow definition of 'family' used in deciding refugee family reunion applications can mean some family members are granted visas to the UK while other members of the same family are refused. This can leave families facing impossible decisions: bring some family members to safety but leave others behind, often at even greater risk as they may be isolated and alone in dangerous circumstances; or put their loved ones' lives in the hands of smugglers in a desperate attempt to be together in the UK.

In addition, cuts to legal aid, insufficient advice services and lack of documentation mean that the existing system makes it very difficult for refugee families to reunite in the UK, with the process often taking several years. This means that the hope of being reunited with family members remains a distant dream for many refugees which seriously impacts on their ability to integrate and rebuild their lives here.

What role for Wales?

Immigration and asylum is not a devolved responsibility of Welsh Government and restrictive legislation has been introduced by successive UK governments. Nevertheless, as a globally responsible nation and one working towards becoming a Nation of Sanctuary⁷, Wales has a role to play in supporting those people forced to flee. The Welsh Government has responsibility for many areas that have a significant impact on the lives of people seeking sanctuary. This includes health, housing, education, transport, social services and community cohesion. In addition, Welsh MPs have an important role to play in scrutinising both new and existing legislation and in helping constituents with problems and representing their concerns in Westminster.

Calculating the exact number of refugees in Wales is difficult, as once leave has been granted people are free to move within the UK. We know however that every local authority in Wales has taken part in the UK Government Syrian Vulnerable Persons Relocation Scheme (SVPR) and that to date 608 Syrian refugees have been resettled in Wales via this scheme.⁸ Family reunification was identified as a key issue in the UNHCR report, Towards Integration⁹, for Syrian's resettled via the SVPR in the UK. Data to September 2017 indicates that there are 2831 people in Wales seeking asylum and a number of people with refugee status.¹⁰ Only people with refugee leave or humanitarian protection in the UK can apply for family reunion.

This paper is based on the expertise of organisations working to support people seeking asylum and refugees living in Wales including those that are affected by family separation.

Impacts of family separation on refugee families

When families who long to be together are separated, they can experience significant trauma and long-lasting harm to their wellbeing.¹¹ This is particularly the case for refugees, who are already vulnerable and isolated from being forced to flee conflict, persecution and human rights violations.

Issues of family reunion for those seeking asylum start from Day 1 when they arrive in the UK, even before they receive refugee status. Prolonged separation from family members causes significant problems for the person seeking asylum. The levels of guilt they often feel about having had to leave their family member at home which may be a war zone or facing the persecution they have escaped (including fear that spouses will be arrested in their place for example) can be unbearable. The Legal Director of Asylum Justice¹² reported that the guilt can ‘completely eat people up’.

Evidence shows that family reunion has benefits for both refugee families and host communities.¹³ The EU Directive on the right to family reunification states that family unity can help to facilitate integration, create socio-stability and promote economic and social cohesion. Community cohesion can be severely hampered by forced family separation which reduces the coping mechanisms of the individuals affected and is compounded by a lack of social connectedness. Family reunion was raised as an issue in the recent All Party Parliamentary Group (APPG) on Refugees inquiry ‘Refugees Welcome?’ including the impact this has on those living in the UK.¹⁴ The Committee were told that successfully reuniting with family members can be a considerable boost to longer term integration, but that barriers to family reunion can become a barrier to integration.

Recent research by Oxfam and the Refugee Council¹⁵ showed that separated families in the UK were unable to focus on activities essential to integration, such as learning English, because they were preoccupied with worries about family members, experiencing feelings of guilt or struggling with mental health problems. Stress and anxiety were especially pronounced for some separated families. Furthermore, some refugees were pushed into poverty after making substantial financial sacrifices to send money to family members abroad.

Barriers to family reunion for refugees living in Wales

1. Limited definition of ‘family’

The rules that govern which family members can be sponsored to join relatives with refugee leave living in the UK are set out in the Immigration Rules. The definitions are very restrictive. For adult refugees in the UK, only partners and dependent children under the age of 18, come under the definition of family. This excludes grandparents, adult siblings and children aged 18 and over. Unlike most other EU Member States, the UK does not allow unaccompanied child refugees to bring even their closest family members to live with them in the UK, thereby condemning them to live separated from their family for the rest of their lives.

As a result, refugees face a stark choice: stay separated from their families in precarious, unsafe situations near or in their home countries, or embark on perilous journeys to reach loved ones already living in safety. Some families face the impossible decision of whether to leave some members behind, be it an elderly mother in Syria or a 19-year-old daughter in a Taliban-controlled region of Afghanistan. For refugees already living in safety in the UK, the forced separation from their families and constant anxiety about their wellbeing can be devastating, preventing them from rebuilding their lives and undermining their successful integration into their new communities.

BOX 1: Rihana resettled from Lebanon to Wales with her husband and 4 children via the Vulnerable Persons Relocation Scheme.

I have 3 sisters, who with their families are still living in Lebanon. My mother, younger brother and youngest sister also live there, but we have left behind our father who is stuck in Jouber, Damascus. The house has been bombed, so he is forced to live in the basement.

It is an extremely insecure situation in Lebanon and Damascus and that is a huge worry for us all.

There is also a huge health fear for my younger brother as he has a problem with his adrenal gland which then affect his hormone levels. Finding medication for him is a difficulty in Lebanon. In order to afford the medication, he must work 14 hours a day.

Our family members left behind in Lebanon only have access to emergency healthcare. Everything else is private and must be paid for. Their children are not even allowed to go the Lebanese schools. If they want to be educated they have to attend private schools which again must be paid.

Being apart from loved ones has brought about a lot of anxiety and distress. We are mentally affected as we always think of our extended family and the difficulties they must face.

2. Legal Aid for family reunion

Advice and representation relating to refugee family reunion was taken out of scope of legal aid in April 2013 in England and Wales¹⁶, because it was considered a straightforward immigration matter that does not warrant specialist legal advice. However, the Office of the Immigration Services Commissioner (OISC), which regulates immigration advisers, has determined that OISC level 1 advisers are not allowed to give advice on family reunion applications which require a higher level of competency (OISC level 2 or 3), highlighting a discrepancy in government policy. It is a criminal offence for a person to provide immigration advice unless their organisation is regulated by OISC.

Since legal aid is no longer available for making family reunion applications or for appealing against the refusal of a family reunion visa, family reunion has become practically inaccessible to many refugees living in Wales. Red Cross research¹⁷ shows that family reunion casework can be very complex. Without legal representation, where a qualified lawyer prepares and submits the application and essential supporting documentation, significant numbers of family reunion applications face refusal on technical grounds. This lack of accredited and affordable legal support (due to the Legal Aid cut & the lack of financial means to pay for a lawyer) can result in family members remaining stranded overseas in dangerous situations and at risk of exploitation and harm.

There is a significant gap in the provision of accredited specialist legal advisors at OISC level 2 and 3 in Wales. The new Welsh Government Asylum Rights Programme (delivered through a partnership of 7 Welsh organisations¹⁸) aims to increase the provision of support and advocacy for asylum seekers in Wales. The Programme also provides funding for one new Legal Officer post, to undertake legal casework at OISC Level 3 through Asylum Justice. Although very welcome (it will double the number of paid Asylum Justice staff from one to two), it will not fill the significant gap that currently exists in Wales for refugees needing urgent help with making a family reunion application or appealing against the refusal of a family reunion visa. Asylum Justice is the only organization in Wales currently providing free legal advice and representation at OISC Level 3 to asylum seekers and refugees and their family members who are currently denied legal aid.

With no access to legal aid and limited access to free OISC Level 2/3 legal advice, refugees are faced with the prospect of paying £600-£800 for legal advice on family reunion applications. If the visas are refused an applicant would have to pay up to £1000 for private representation at the subsequent appeal, on top of the court fees for lodging the appeal/s with the Court (currently £140 for each family member refused).

3. The length of time family reunion applications can take

When arriving in the UK, some people have already been separated from their family for an extended period of time and they will not be able to apply for a family reunion visa until they have been granted asylum. If asylum is only granted on appeal (due to the poor quality of initial decision making) then this period will be significantly longer. And all this before the person can even start family reunion visa applications. To minimise distress, it is vital that refugees are provided with immediate access to family reunion procedures with specialist legal representation to enable refugees to live a normal family life together in safety.

Even after a person has submitted the family reunion visa application at the embassy, the decision-making process takes a minimum of 3 months due to UK Visa and Immigration policy and timescales. If a family reunion visa application is refused, the decision currently attracts a right of appeal, with an appeal needing to be submitted within 28 days of the decision being received. Nevertheless, the appeal itself will not be heard in immigration courts for approximately 12 months, and, even if an applicant wins their appeal, it will be at least two or three months more until that visa is granted. The delay in hearing the appeal is partly because of the cuts to court funding but also because the Court's policy is to expedite the hearing of appeals against the refusal of asylum to people already in the UK, with so-called 'entry clearance' appeals (which include family reunion appeals and appeals lodged by anyone not already in the UK) always relegated to a back seat. This unacceptably long waiting time causes further suffering and distress to separated families.

Even when the appeal is heard, it can be very difficult to succeed in an appeal against the refusal of a family reunion visa as most appeals win or lose based on the evidence submitted with the application. Unfortunately, in family reunion appeals, the immigration judge is in general prohibited from considering new or better evidence to show that a family member satisfies all the relevant requirements of the Immigration Rules. This means that, if the evidence submitted in the initial visa application was deficient or inadequate (usually because an applicant had no legal representation and did not understand what was needed), then very often it cannot be remedied at appeal (with a few notable exceptions). The decision an applicant must then make - whether to appeal against a decision, or instead to make a new application with better quality evidence - is a crucial one, but one that is very hard to make without expert advice. Making the wrong decision about this can cost even an unrepresented client many hundreds of pounds just in court fees (if they have a large family), but, more importantly, it could also extend the period for which the family is separated by at least another

12 or 18 months, during which time vulnerable family members will be forced to remain in war zones or other dangerous situations. Put simply, if someone pursues an appeal that has very poor prospects of success, due to evidential deficiencies in the initial application, they will be wasting well over a year, awaiting the hearing and decision in an appeal that they probably could not win in the first place. Conversely, with good quality legal advice and representation, they could submit a new application, with superior evidence, within a matter of weeks of the family members being refused their visas.

4. Lack of documentation

Even for people who fit the narrow definition required for a family reunion application, bureaucratic issues, particularly the burden of proof through official documents, is a barrier. Refugees applying for family reunion need to provide documentation to prove identity, such as birth certificates, national identity cards and passports, and documentary evidence of family relationships, such as joint bank account statements or marriage certificates. This can be a significant barrier for those that have fled for their lives without documentation. In addition, applicants must prove not only that their marriage or relationship is genuine, but also that it has subsisted throughout the period following the sponsor's departure from the country of origin. Given the situation in which both the sponsor and their family members back home are frequently living throughout such a period, this can obviously be very difficult to do and for unrepresented applicants, it is completely unrealistic for them to be expected to know what evidence is expected from them in this regard. Sadly, it is not uncommon for an application to be refused on the basis that, although the marriage or relationship is accepted as being genuine, it is no longer considered to be a 'subsisting' one. Yet with proper advice and representation, these evidential problems can often be remedied quite easily before an application is submitted.

BOX 2: Mubarak. Received status after 6 months of arrival in the UK and then it took another 6 months to reunite in the UK with his wife and 4 young children.

He describes the 6 months without his family as 'terrible', with communication via WhatsApp mostly – 'not a good way to watch your children grow' and he feels he missed a year of their lives. His family were in Jordan having escaped the war in Syria where 'you could see the bombs dropping daily'.

His application for family reunion was supported by the Red Cross. Money was an issue, particularly the cost of travel for his wife and children and he thanks a Jordanian doctor in Wales who paid for the travel tickets for him. Without this support, the travel would not have been affordable.

He highlighted that one positive thing was that although his wife and children had no passports or official documents, informal proof of his marriage was accepted. Without this, the only alternatives would have been to abandon the idea of family reunion and for him to return to his family in the precarious situation in Jordan or to find an impossible amount of money to bribe officials in Jordan to purchase unofficial passports – the former would have been the most likely option.

He would like family reunion to be extended to include parents – he hasn't seen his mum and dad for 4 years and although they communicate when they can, the internet in Syria isn't reliable.

5. Finances

Even if a family reunion application is successful, very limited support is available to ensure practicalities such flights are covered to enable the reunion to take place. The Red Cross Restoring Family Links Services (RFL) offer a means tested travel assistance programme, in partnership with the International Organisation for Migration (IOM), that can help pay the travel costs for the family members of refugees who remain overseas but have been granted a refugee family reunion visa to come to the UK. Between September 2016 and September 2017, the Red Cross provided financial assistance to cover the travel costs of 32 travel assistance cases from Wales of relatives who were accepted by the Home Office under refugee family reunion. The sponsors (family member with refugee leave living in the UK) in all cases accessed the offices in Cardiff, Newport and Swansea to submit their applications. Most of the cases assisted were from the Cardiff office.

BOX 3: Wahiba from Sudan who has been reunited with her husband in Wales.

Her husband was a painter and driver in Khartoum and left due to problems with the government. The woman completed studies in medical lab science. Her husband got status in the UK 16 days after arrival. It then took 4 years for her to be reunited with him. They are supporting themselves with money earned by the husband as a cleaner.

The reason it took 4 years to reunite was for the couple to obtain the money needed to pay solicitors in the UK and in Sudan (to obtain documents) and travel costs. As well as saving money for these, during the 4 years, the husband was also sending money back to his wife (approx. £50 a week) to live off.

She and her husband are grateful they were married prior to him coming to the UK as they know partners who feel they'll never be able to reunite due to the minimum earnings criteria and English language requirements which they felt were absolutely prohibitive.

Both would like to see family reunion extended to include parents and siblings as they are close to these people in their lives and find it hard to live with the uncertainty of how they are – particularly as some of them are in similar danger to that experienced by the husband.

6. No support services available

Once a person receives notification of refugee leave, they enter a period of heightened anxiety as they navigate through the move-on process (transition period where people move from asylum support to the mainstream benefits and support system) whilst simultaneously trying to navigate a family reunion application.

When refugees are resettled in the UK local authorities know who is going to arrive in their area and when they will arrive. Although family reunion is a managed route (i.e. requiring a visa) local authorities are not informed that a family will be coming. This means they are unable to prepare for families who have arrived through the refugee family reunion route as they would for resettled families. Many refugees seeking to sponsor family members to join them will be single adults likely to be living in shared, temporary or single bedroom accommodation. At a time when they should be celebrating family reunion, for many refugees this can be another crisis point – when refugees are at a higher risk of destitution, homelessness or severe overcrowding at home.¹⁹ These risks place extra strain on families at a critical time, as they attempt to build a home together after what may be years of separation and disrupted family life.

There is potential for the Red Cross travel assistance support to act as a key preparatory tool to enable local authorities and Welsh Government to prepare for new arrivals. This is the principle for the fast-track system in Scotland which has also created protocols for housing referrals, school placements including school clothing and free school meals, and healthcare.

Recommendations

At UK level:

Amend the UK Immigration Rules and use the Private Members Bill for Refugee Families²⁰ to:

1. Expand the criteria for who qualifies as a ‘family member’ for the purposes of refugee family reunion to include:

- young relatives who are reliant on the family unit for their well-being at the time of application, including stepchildren and de-facto adopted children;
- adult sons and daughters who were part of the family unit prior to the refugee fleeing their country of origin;
- adult siblings who have not formed a family unity prior to the refugee fleeing their country of origin;
- parents;
- post-flight spouses and their children who are part of the family unit;
- any dependent relative, including where being separated presents risks to their safety and security;
- any person who the person granted refugee leave or humanitarian protection is a dependent relative of.

2. Allow children found to be in need of international protection in the UK to bring family members here under the refugee family reunion policy.

3. Reintroduce legal aid for refugee family reunion cases.

At Wales level:

1. Legal Aid: The Welsh Government to look at ways to mitigate the adverse impacts of UK policy in Wales by enabling refugees to access the free accredited legal advice required for complex family reunion cases for example by funding a dedicated family reunion case worker under the supervision of Asylum Justice. This case worker will be able to submit family reunion applications and provide representation at appeals against the refusal of family reunion visas.

2. Local Support: Welsh local authorities and local health boards to implement protocols for successful family reunion applications so that appropriate support including temporary housing, school placements and healthcare is made available as soon as family members arrive.

3. Financial Support: Welsh Government to ensure that there is a process to fast track access to the Discretionary Assistance Fund at the point of family reunion.

Endnotes

1. 21.3 million people have crossed a border and become refugees. 40.8 million people have been displaced within the confines of their own countries - UNHCR. Retrieved from <http://www.unhcr.org/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>
2. The Universal Declaration of Human Rights states that the family is the 'fundamental group unit of society and is entitled to protection by society and the State'. See United Nations. Universal Declaration of Human Rights. Retrieved from <http://www.un.org/en/universal-declaration-human-rights/>
3. Available at UK Government. Immigration Rules. First published 29 February 2016, last updated 3 January 2017. <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>
4. For more information, see: K. Pike, V. Cowan, O. Field and J. Potter. (2016). How reuniting families can provide solutions to the refugee crisis. British Red Cross. Retrieved February 2017, from <http://www.redcross.org.uk/~/media/BritishRedCross/Documents/About%20us/RFR%20designed%20briefing%20-%20July%202016.pdf>
5. i.e. spouses, civil partners and same-sex partners.
6. House of Lords (2017) Second Reading Refugees (Family Reunion) Bill. Retrieved December 2017 from [https://hansard.parliament.uk/lords/2017-12-15/debates/B90C7204-C90C-471D830F-AB8B7BC45F67/Refugees\(FamilyReunion\)Bill\(HL\)](https://hansard.parliament.uk/lords/2017-12-15/debates/B90C7204-C90C-471D830F-AB8B7BC45F67/Refugees(FamilyReunion)Bill(HL))
7. A Wales where people seeking sanctuary are met with welcome, understanding of their circumstances and celebration of their contribution wherever they go.
8. The latest data is available on the Home Office website within Asylum data table volume 4: <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2017>
9. UNHCR 'Towards Integration', report on the SVPRS in the UK <http://www.unhcr.org/uk/protection/basic/5a0ae9e84/towards-integration-the-syrian-vulnerable-persons-resettlement-scheme-in.html>
10. The latest data is available on the Home Office website within Asylum data table volume 4: <https://www.gov.uk/government/statistics/immigration-statistics-july-to-september-2017>
11. 'Safe but not Settled: The impact of family separation on refugees in the UK' Joint Research by Oxfam and Refugee Council January 2018 <https://www.oxfam.org/en/research/safe-not-settled-impact-family-separation-refugees-uk>
12. Conversation with Legal Director of Asylum Justice - Ruth Brown September 2017. Asylum Justice is a small charitable trust providing free legal services to asylum seekers and refugees living in Wales with a long waiting list of clients who need help in many different and complex areas of asylum and related immigration law <http://asylumjustice.org.uk/>
13. UNHCR (2001). 'Protecting the Family: Challenges in Implementing Policy in the Resettlement Context'. <http://www.refworld.org/docid/4ae9aca12.html>
14. APPG report (April 2017) 'Refugees Welcome? The experience of new refugees in the UK' – A report by the All Party Parliamentary Group on Refugees https://www.refugeecouncil.org.uk/assets/0004/0316/APPG_on_Refugees_-_Refugees_Welcome_report.pdf
15. 'Safe but not Settled: The impact of family separation on refugees in the UK' Joint Research by Oxfam and Refugee Council January 2018 <https://www.oxfam.org/en/research/safe-not-settled-impact-family-separation-refugees-uk>
16. Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 implemented substantial scope cuts to civil legal aid which took effect in April 2013. As such you can only provide legal aid to cover certain types of civil dispute (in scope). These are detailed in Schedule 1 LAPSO <http://www.legislation.gov.uk/ukpga/2012/10/schedule/1/enacted>
17. 'Not so straightforward: the need for qualified legal support in refugee family reunion' Red Cross 2015 <http://www.redcross.org.uk/~/media/BritishRedCross/Documents/About%20us/Not%20so%20straightforward%20refugee%20family%20reunion%20report%202015.pdf>
18. <http://welshrefugeecouncil.org.uk/sites/default/files/news/files/WG%20Asylum%20Rights%20Programme%20Overview.pdf>
19. Red Cross research report – 'We started life again; Integration experiences of refugee families reuniting in Glasgow' 2015 <http://www.refworld.org/pdfid/560cde294.pdf>
20. <https://services.parliament.uk/bills/2017-19/refugeesfamilyreunionno2.html>