

JULY 2020



JUSTRIGHT SCOTLAND

# REUNITED

# FAMILY MEMBERS

An accessible, concise document on the rights and entitlements of family members of refugees who have come to the UK through refugee family reunion.

## Right to Work & Benefits

You have the right to work in the UK but employers must carry out their own checks to ensure their employees do have the right to work. This is called the '[Employer Checking Service](#)'. Your Biometric Residence Permit (BRP) should say "Work Permitted" and can be used as evidence of the right to work by employers.

You are also entitled to claim welfare benefits such as Universal Credit, as long as you are not a person with 'No Recourse to Public Funds' (NRPF).

## No Recourse to Public Funds

If the application for family reunion was granted outside of the Immigration Rules you may have 'No Recourse to Public funds' (NRPF). NRPF will be written on your BRP if this condition applies to you. NRPF means that you are not entitled to claim certain welfare benefits such as Universal Credit or housing benefit.

It is important to understand that NRPF only applies to "public funds" specified in the UK Immigration Rules. There are many publicly funded services which people may believe to be subject to the NRPF condition but which are in fact not in the Immigration Rules, and therefore can be accessed even if NRPF. For example, a person with NRPF can be entitled to access NHS services, legal aid and school education.

Receiving public funds that you are not entitled to is an offence. This could result in your immigration leave being curtailed or a future immigration application being refused. It may be possible to apply to have the NRPF condition removed. If you have NRPF and you wish to change this condition you should speak to an immigration solicitor or an adviser registered with the OISC.

To find out more about what is and what is not considered to be a public fund, see [UK Visas and Immigration \(UKVI\) guidance](#).

## Leave to Remain in the UK

Your specific rights and entitlements are linked to those of the family member who applied for you to join them in the UK, your "Sponsor". You should be granted "leave in line" with your Sponsor.

This means that if their leave to remain in the UK expires, your leave to remain will expire at the same time. You should always check the conditions of your leave to remain and when your leave expires. This will be written on your BRP.

If you are granted family reunion outside of the Immigration Rules, UK Visas and Immigration (UKVI) guidance states that you should be granted leave to remain for

33 months, rather than leave in line with your Sponsor (unless your Sponsor has less than 33 months of leave to remain remaining, in which case you will be granted leave in line with your Sponsor). Please seek advice from a solicitor or qualified adviser about the process for extending your leave to remain.

If your relationship with your Sponsor breaks down while you have limited leave to remain in the UK you can lose your rights and entitlements. This is because you have been granted permission to live in the UK on the basis that you have a "family life" with your Sponsor and you will live together. When your relationship with your Sponsor has broken down permanently there is a risk that your leave to remain could be curtailed or that a future application for indefinite leave to remain (ILR) could be refused. This is the case for both partners and dependent children. If this is your situation you should speak to a solicitor or qualified adviser as a matter of urgency. They can give you advice on your options.

### Settlement (Indefinite Leave to Remain)

If your Sponsor has indefinite leave to remain (ILR) when they apply for family reunion, and you have leave in line with your Sponsor, then you should also be granted ILR in line with your Sponsor. ILR is often referred to as "settlement".

If your Sponsor has limited leave to remain (or Refugee Status), and you have leave in line with your Sponsor, then your leave should expire at the same time as theirs. Prior to this your Sponsor should make an appointment to see a solicitor or qualified advisor, to make an application for themselves and any other dependent family members for [ILR in the UK](#). Currently, UKVI do not charge a fee for making this application. This application must be submitted in the month before your status expires.

If you were granted family reunion outside of the Immigration Rules then UKVI guidance states that you will be on what is called the "10 year route" to settlement. This will involve making several successful applications for further leave to remain before you are eligible to apply for ILR. These applications involve paying a large application fee and the

'Immigration Health Surcharge'. You can apply for a fee waiver for applications for further leave to remain (but not for ILR) if paying this fee would make you destitute.

If you are a dependent child relative of a Refugee such as a sibling, niece or nephew who applied under Section 319X of the Immigration Rules then you can apply for ILR under Rule 298 of the Immigration Rules when your Sponsor has ILR. If you are now over 18 you will need to take the 'Life in the UK' test and take an official English test at minimum level B1. If you are over 18 and cannot meet these requirements you will need to apply for further limited leave to remain, and then apply for ILR when you have been living in the UK continuously and lawfully for 10 years.

#### Once you have settlement:

- There are no restrictions on your length of stay in the UK
- You no longer need to be dependent on your Sponsor
- You can access public funds even if you had NRPf before

### Travel and Travel Documents

You must keep a record of dates in which you are absent from the UK as you will need to disclose and explain absences in your application for ILR. Long periods of time spent outside the UK could affect any future application for leave as it may appear that you are resident elsewhere.

Unless you have stated in your application that your country of nationality is unsafe, you can usually return to your country of nationality without this affecting your immigration status.

**This is different to persons with Refugee Status who risk losing their status if they return to their country of nationality.**

You can also travel on your national passport provided that you are not at risk from your national government.

Otherwise, you can apply for a '[Refugee Convention Travel Document](#)'. You will need to surrender your passport in order to do

**so. You can't use a Refugee Convention Travel Document to return to your country of nationality.**

If you have been granted family reunion outside of the Immigration Rules you may not be able to apply for a Refugee Convention Travel Document.

### Change of Circumstances

If your circumstances change you must inform the UKVI within 3 months. This includes if:

- you change address
- you change name (e.g. if you get married)

You should seek legal advice **before** informing UKVI if your circumstances have changed in any of the following ways, as they have potentially serious implications:

- you separate from your partner
- any of your children stop living with you permanently
- you get a criminal conviction

Please see the [UK government website](#) for a full list of relevant circumstances and information about how to update your circumstances. For some of these changes you will need to apply for a new BRP.

### Breakdown of Family Relationship Domestic Abuse

As a reunited family member's status is tied to that of their Sponsor's, reunited family members experiencing domestic abuse are particularly vulnerable because separating permanently can make them to lose their rights and entitlements.

**No one should have to stay in an abusive relationship because of their immigration status.** If you are experiencing domestic abuse as a reunited family member please seek support from organisations and people you can trust. As your status is dependent on that of your Sponsor you should access legal advice from a solicitor or qualified adviser registered with the OISC as a matter of urgency.

You can find a list of organisations who support victim-survivors of domestic abuse [here](#).

The [Scottish Women's Rights Centre](#) offers free legal advice and advocacy support through helplines and surgeries, as well as direct representation.

There will also be local [Women's Aid](#) and [Rape Crisis Centres](#) in your area.

### Domestic Abuse – Application for ILR

Partners who have come to the UK through refugee family reunion and who are victims of domestic abuse may be eligible to apply for ILR. At present, this applies to the spouses of persons with Refugee Status, ILR or British citizens. This gives people in this situation a route to ILR without being dependent on their abusive partner.

To meet short-term welfare needs, it may be possible to obtain access to public funds whilst making this application through what is called the **"Domestic Violence Concession" (DVC)**. It is very important that you speak to a legal representative to get advice on your individual circumstances.

### Children Leaving the Family Home

Dependent children who have leave to remain through family reunion and have turned 18 may feel ready to live independently. Children may also experience domestic abuse or family breakdown which means they are unable to remain in the family home.

The UKVI has given the child permission to come to the UK on the basis that they are dependent on and are part of the family unit of the Sponsor. Leaving the family home permanently changes this situation and there is a potential risk that the child's leave to remain could be curtailed or that a future application for ILR could be refused.

Once the child has ILR their status is no longer dependent on their relationship with the

Sponsor, so they can freely leave the home.

If you are a dependent child (either under or over 18) and are thinking of leaving the family home or have already left, you should access legal advice.

If you are a young person who is experiencing domestic abuse or family breakdown, please talk to someone you trust about your situation. There are [organisations](#) which can help you understand your options and help you access safety and support.

### Claiming Asylum

While their Sponsor has been recognised as being at risk of persecution in their country of nationality, reunited family members are not automatically recognised as Refugees despite often sharing the Sponsor's risk of persecution.

If you are granted Refugee Status in your own right then your status is no longer dependent on your relationship with your family member. Claiming asylum can therefore be a route to leave to remain for reunited family members who have a protection claim and whose relationship with their Sponsor has broken down.

Asylum seekers are generally not permitted to work or claim mainstream benefits but there are exceptions dependant on the circumstances of each case. Always seek legal advice about your current leave to remain and its conditions as it is an offence to work or claim benefits when you are not entitled.

**The asylum process can be long and difficult. There are also no guarantees of success. Legal aid is available for asylum applications throughout the UK and it is strongly advisable to get legal advice before claiming asylum.**

### Children Born in the UK

If you have a baby after arriving in the UK, your baby's immigration status will depend on the status of their parents.

If you or your partner has ILR, your child born in the UK automatically acquires British citizenship at birth. There is therefore no need to make an application for British citizenship.

If your partner is a Refugee or has

Humanitarian Protection and you have come to the UK through family reunion, your partner will need to apply for leave in line for your child. This means the child's permission to be in the UK will expire at the same time as their parents.

There is no form and no fee to pay for an application for leave in line as the UK born child of a Refugee or person with Humanitarian Protection. Seek legal advice about the evidence you will need to send to UKVI for the application.

If you or your partner later obtain ILR or become a British Citizen and your child was born in the UK, your child can register for British Citizenship. There is a fee for this application.

### Lost Documentation

It is important to keep documents which show your identity, your immigration status and your ongoing relationship with your Sponsor as they may be important for establishing your right to be in the UK and your entitlements. They may also be important for future immigration applications.

If you lose your BRP then you need to inform UKVI within 3 months. [You can then request a new BRP.](#) An immigration solicitor or OISC adviser can help you with this application. If you do not inform the UKVI of your lost or stolen documents, you could be fined up to £1000.

### Where Can You Get Further Advice?

In Scotland, people with a low income or on benefits are eligible to apply for [free legal advice](#) on their immigration status and options.

You can find an immigration solicitor through the [Law Society of Scotland's 'Find a Solicitor' website](#). Immigration advisers registered with the Office of Immigration Services Commissioner (OISC) can be found [here](#).

# THE SCOTTISH FAMILY REUNION SERVICE

## How can the Scottish Family Reunion Service help?

The Scottish Family Reunion Service (SFRS) is a joint collaboration between JustRight Scotland and the British Red Cross working together to provide an information, outreach and casework hub for refugees who wish to bring their family members to Scotland.

We provide information and advice to refugees and those supporting refugees by telephone or by appointment (including remote advice appointments).

We provide an enhanced casework service where there are additional support needs, a certain urgency to the case or a legal complexity. This includes applications under the Immigration Rules, as well as outside the rules and under Section 319X.

## CONTACT DETAILS

If you wish to make a referral to the SFRS, then please complete the form **on our website**.

Alternatively, please contact **Emily Edwards** by email at [emily@justrightscotland.org.uk](mailto:emily@justrightscotland.org.uk)

Or you can call us on 0141 406 5350.



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