

# Home Affairs Committee

Committee Office House of Commons London SW1A 0AA  
Tel +44 (0)20 7219 2049 Email [homeaffcom@parliament.uk](mailto:homeaffcom@parliament.uk)  
Website [www.parliament.uk/homeaffcom](http://www.parliament.uk/homeaffcom)

From the Committee Chair

Rt Hon Priti Patel MP  
Home Secretary  
Home Office  
2 Marsham Street  
London  
SW1P 4DF

21 December 2020

Dear Home Secretary,

## **Urgent family reunion issues following the UK's exit from the EU**

In the course of our inquiry into *Channel crossings, migration and asylum-seeking routes through the EU* we have heard concerns about arrangements for family reunion in the period immediately following the UK's exit from the EU and withdrawal from arrangements for family reunion under the Dublin III regulation. Home Office Ministers have told us that, subject to the outcome of negotiations with the European Union on the terms of withdrawal, the UK Government aspires to a single global process for family reunion but also wishes to seek agreements with the EU or individual European states. Owing to the continuing uncertainty over the terms of the UK's exit, it has not been possible to progress these plans and it seems unlikely that new procedures could now be put in place for 31 December 2020. The Committee has discussed this issue at its meeting on Monday 21 December and resolved to write to you on this basis.

Within the global movement of asylum seekers the numbers of unaccompanied children are relatively small but these children—whether at Calais or in refugee camps in Greece—are very vulnerable. Concerns for these children have been expressed across political parties and in the Commons and the Lords. We recognise that the Government's inclusion of a draft text in EU exit negotiations, that supported effective procedures for uniting asylum-seeking children with family, showed a desire to achieve a fair resolution for these children, and we regret that this has not been included in negotiations to date. We also welcome the commitments made on 2 December by Chris Philp MP, the Minister for Immigration Compliance and the Courts, that if European-level negotiations prove unsuccessful, the Government will rapidly seek bilateral discussions with European states, with "countries like France...top of [the] list".

Following UK withdrawal from the Dublin III Regulation and pending the implementation of any new agreements the routes to family reunion in the UK will be by the Refugee Family Reunion Rules—open to a child who has a family member in the UK with recognised refugee status—and under provisions of the UK Immigration Rules which the Government has previously accepted are "confusing and complex ... [and] create barriers" for those seeking to come lawfully to the UK. We have been told that the UK Immigration Rules are not designed to facilitate transfers in order to seek asylum and there are no rules that apply specifically to asylum-seekers. We are also concerned that the UK Immigration Rules place the onus on the UK and on the child to manage the reunion process, while under the Dublin regulation the state where the child is temporarily resident takes a significant share of the responsibility for supporting reunion.

The UK Immigration Rules are likely to be particularly difficult for an unaccompanied asylum-seeking child to navigate in the following respects:

- the process and forms are complex and the child may not have access to a specialist in UK law to help them with the application process;
- the appeals process is unclear and may be costly for a child to pursue from another country, and
- the process is lengthy and may require the child to wait in unsafe conditions while the application is processed.

This cost and uncertainty may drive children to attempt to come to the UK to reunite with relatives via alternative, possibly unsafe and illegal, routes.

We welcome the Government's commitment to respond rapidly to the statutory review and public consultation on safe and legal routes to the UK required by the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020. However, this does not alter the reality that, from 1 January 2021, the chances for a lone child to join family in the UK by a safe and legal route will be diminished by the loss of the Dublin Regulation. The Government should recognise that the maintenance of effective safe and legal routes for all those who have a legitimate claim for asylum is an essential component of efforts to combat organised immigration crime and every effort should be made to protect children from criminal activity.

While we look to the Government to respond quickly and in good faith to concerns raised through that statutory review, the implementation of alternate processes will take time. Unless mitigating steps are taken, vulnerable unaccompanied children who are now in Europe will be at increased risk of harm while possible reforms are explored.

We would be grateful for your urgent consideration of these issues of concern:

[Helping vulnerable children unite with family members while negotiations with EU states continue and the UK consults on and assesses its immigration rules](#)

On 2 December the Minister for Immigration Compliance and the Courts told us that he accepted "*the premise that we should be helping vulnerable children who need to be reunited*

*with their families*", but he would not make an "off-the-cuff commitment" to introduce a temporary solution for unaccompanied children while the new system is put in place.

We were not reassured from his evidence that the Government has properly considered the practicalities of applying the UK Immigration Rules to children already in Europe, or the possibility that requirements in these rules for children to present themselves at processing centres and find fees in support of applications could expose them to greater risk.

Interim measures are needed urgently to ensure that children who currently qualify under the Dublin III Regulation will not be disadvantaged and can still be reunited with family in the UK on the same or improved terms from 1 January 2021. We request that the Government prioritises development of an interim solution, which should take account of the concerns voiced about the difficulties unaccompanied children are likely to face when seeking to apply for a safe and legal route to the UK under the UK Immigration Rules.

We welcome the Government's acknowledgement, in the Minister's letter to us of 11 December, of its discretion to grant children leave to enter outside the Immigration Rules and to waive application fees on a case by case basis. We urge the Government to use this discretion compassionately, within the legal constraints, as part of an interim solution pending a multilateral agreement with the EU or agreements with European states on family reunion, and completion of revisions to UK immigration policy and practice resulting from its review of safe and legal routes into the UK.

#### Children currently eligible for transfer to the UK under the Dublin III Regulation

On 2 December Dan Hobbs, Director, Windrush, Asylum, Immigration and Citizenship, Home Office, told us that there were provisions in the Withdrawal Act which meant that the Home Office would honour any application for a transfer to the UK under the Dublin III Regulation from a member state made before 23.00 hours on 31 December 2020. Please confirm that applications will be honoured by both the UK and the EU states involved; please also tell us how many asylum-seekers are currently in this cohort.

#### Negotiation plans and priorities

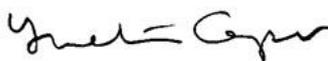
On 2 December we asked Mr Philp if other member states had agreed to formal bilateral discussions. He replied that the Government had "had warm, friendly and collegiate general discussions" with EU states, but that negotiations could not start with individual states until EU negotiations had completed. Please provide the list of states that the Home Office has prioritised for negotiations and any plans and resources you have in place for progressing negotiations.

## Changes

On 10 December the Government laid before Parliament a Statement of Changes to the Immigration Rules which will come into effect at 23.00 hours on 31 December 2020, as the UK leaves the EU. Some commentators have expressed concern about the operation of these new provisions and the absence, as yet, of assurances about the compatibility of these changes with the UK's obligations under the European Convention on Human Rights, the 1951 Refugee Convention, international maritime law and other relevant provisions.

We wrote to you on 11 December seeking clarification of points raised by the changes and will consider this issue in greater depth once we are able to consider your response. In view of the wider concerns expressed about these proposals we reiterate our request that you provide further information and guidance urgently to clarify the operation of these changes and their compatibility with the UK's obligations under the Refugee Convention, the European Convention on Human Rights and all other relevant provisions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Yvette Cooper', written in a cursive style.

**Yvette Cooper MP**