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Home Secretary

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Rt Hon Yvette Cooper MP
Chair, Home Affairs Select Committee
House of Commons
London
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Dear Yvette,

30 October 2019

Thank you for your letter of 16 October regarding unaccompanied child migrants seeking to enter the UK, in the context of EU Exit.

The UK has a long and proud tradition of providing protection to those who need it, and this will not change when we leave the EU. We are also clear that those in need of protection should claim asylum in the first safe country they reach – this is the fastest route to safety.

You are aware that this Government is committed to aiding and supporting the most vulnerable children affected by the migration crisis. The UK provided protection to over 7,000 children in the year ending March 2019, and over 39,500 since the start of 2010. Since 2010, the UK has also received over 20,000 unaccompanied asylum-seeking children (UASC), who have been cared for by local authorities. In 2018 alone, the UK received 2,872 UASC, which represents 15% of all UASC claims lodged in EU countries last year.

The Government is also committed to the principle of family unity and provides safe and legal routes to bring families of refugees together through its refugee family reunion policy and under Appendix FM to the Immigration Rules.

Finally, as you state in your letter, the Government is committed under section 17 of the European Union (Withdrawal) Act 2018 to seek to negotiate a reciprocal agreement with the EU to allow unaccompanied asylum-seeking children in the EU to join relatives - parents, siblings, aunts, uncles and grandparents - lawfully resident or awaiting a decision on their asylum claim in the UK, where it is in the child's best interests, and vice versa. This commitment stands whether we leave the EU with or without a deal.

I have endeavoured to answer your questions as best I can below.

1. What assessment has the Home Office made of how many children and families could be affected by any sudden cessation in the Dublin system following a no-deal exit?

The UK will continue to be bound by the Dublin Regulation while we are still members of the EU and, if we successfully leave with the newly-negotiated withdrawal agreement, during the transition period. If for any reason the UK leaves the EU without a deal, we will cease to be party to the Dublin Regulation immediately.

In 2018, 159 unaccompanied asylum-seeking children transferred to the UK under Article 8 of the Dublin Regulation to reunite with their families – this indicates the impact of ceasing Dublin for this cohort.

Under Dublin, unaccompanied children seeking protection in an EU Member State can be transferred to another Member State where a family member is legally present, if in the child's best interests. This includes family members who are seeking asylum in the UK and have not yet had their claim determined. Eligible family members include parents and siblings, as well as adult aunts, adult uncles and grandparents where it is determined that they are able to take care of the child.

Some of these children will potentially have been eligible to come to the UK under other immigration routes. Under the refugee family reunion Immigration Rules, those found to be in need of protection in the UK can sponsor their partner and children under 18 to join them here, if they formed part of the family unit before the sponsor fled their country. There is discretion under this route to grant leave outside of the rules in exceptional or compassionate circumstances.

In addition, Appendix FM to the Immigration Rules provides for family members wishing to enter or remain in the UK on the basis of their relationship with a family member who is a British citizen or settled in the UK, and those who are post-flight family members of a person granted protection in the UK. This includes cases where there are exceptional circumstances or compelling compassionate grounds which warrant a grant of leave under the Rules. Neither of these routes will be affected by EU Exit.

2. What action is being taken to ensure that, in the event of a no deal, unaccompanied minors continue to have access to the family reunification process as it currently stands?

On 22 October, I wrote to the Commission to set out the Government's intention to seek to negotiate a replacement mechanism for the transfer of unaccompanied asylum-seeking children to join family members of relatives lawfully in the UK. I have called on the Commission to work with us to minimise the disruption for children in this scenario after 31st October.

It is worth noting that in the Immigration, Nationality and Asylum (EU Exit) Regulations 2019, the Government included a 'savings provision' such that any Dublin family reunion cases which have been referred to the UK prior to exit day will continue to be processed in a no deal scenario.

As above, some of the affected children will also be able to apply to come to the UK to join family under other routes.

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3. What discussions are under way to secure agreement with the EU on future arrangements for family reunion in line with the requirements of s17 of the European Union (Withdrawal) Act 2018?

As above, I have written to the Commission to set out the Government's intention to seek to negotiate an agreement pursuant to our section 17 commitment as soon as possible. Whilst I am confident of a positive response by the Commission, as continued cooperation on asylum matters is in our respective interests, the UK cannot compel the EU to negotiate with us on any given issue, nor compel the EU to do so within a specific timeframe, so it is not possible to put a timeframe on when certain elements of our future cooperation with the EU will be negotiated.

4. What consultation has the Government undertaken on the future of family reunion for unaccompanied minors?

The Government listens closely to the views and representations of a number of valued stakeholders in the field of unaccompanied child migrants through existing dialogues, including civil society organisations, and we will reflect on these as we negotiate an agreement on section 17.

5. What arrangements are in place to support family reunion during any transition period following a deal being reached?

If we reach a deal with the EU, the UK will continue to be bound by the Dublin III Regulation throughout any implementation period. This includes the family reunion provisions in Articles 8, 9, 10, 16 and 17.

6. Why does the Government not intend to seek third-party access to the Dublin III Regulation?

The UK is leaving the EU. This means no longer being bound by EU legal instruments such as the Dublin III Regulation. However, our section 17 commitment is to seek to negotiate an agreement allowing for the family reunion of UASC in Europe. This will ensure we continue to reunite vulnerable unaccompanied children in Europe with their family members in the UK after we leave the Dublin III Regulation.

7. What is Government doing to make sure that those supporting unaccompanied minors' applications for family reunion are aware of possible significant changes to the system?

As part of our planning for leaving the EU, the Home Office is preparing communications for those organisations affected by the upcoming changes to the system, including any implications for unaccompanied asylum-seeking children seeking family reunion from the EU. The content of those communications will depend on whether the UK exits with or without a deal. The Home Office has also updated stakeholders regularly as part of our productive ongoing dialogues as matters have developed through the course of the EU exit legislative framework and Parliamentary debate.

8. Is domestic legislation required to maintain family reunion rules for unaccompanied minors? If so, when will it be introduced?

This will depend on the content of any agreement reached. Any legislation required will be introduced as soon as practicable.

I trust that my response addresses your concerns. I also hope this clarifies the questions posed at the Home Affairs Committee session on 23 October.

Yours sincerely,



Rt Hon Priti Patel MP