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GATEWAY PROTECTION PROGRAMME

1. INTRODUCTION

- 1.1 This instruction gives details of how caseworkers should deal with applications for resettlement to the UK under the Gateway Protection Programme.

The Gateway Protection Programme is operated by the UK Border Agency in conjunction with the United Nations High Commission for Refugees (UNHCR), and a quota, which is set annually, determines its intake.

Caseworkers may also find it useful to refer to the APIs on dependants, children, and gender issues in asylum claims. Reference may also be made to Chapter 9 of the IDIs (General Grounds for the Refusal or Entry Clearance, Leave to Enter, or Variation of Leave to Enter or Remain).

2. APPLICATIONS

- 2.1 Applications for resettlement to the UK under this programme are referred to the UK Border Agency by UNHCR. Applications cannot be made direct to the UK Border Agency, nor to UK posts abroad or through other international organisations. All applications are assessed individually on their merits.

The International Asylum Policy Unit (IAPU) in the Asylum and Appeals Policy Directorate and the Resettlement and Access to Benefits Section (RABS) in the Social Policy Unit maintain oversight and management of the programme. Referrals are processed through IAPU to the specific casework team responsible for considering cases.

3. QUOTA

- 3.1 The number of arrivals to the UK through the Gateway Protection Programme is determined by an annual quota, the level of which is established by Ministers each year having considered the resources available, the need for resettlement globally, and impact on local services in the UK.

Successful applicants of a caseload, where the majority of refugees from the caseload arrive in the UK through the resettlement programme before the end of the financial year, are also counted against the quota.

4. ASSESSING APPLICATIONS FOR RESETTLEMENT

- 4.1 Applicants referred to the UK for resettlement by UNHCR under the Gateway Protection Programme have been afforded Mandate status by UNHCR and are considered eligible by UNHCR for recognition as a refugee within the meaning of the 1951 Convention.

- 4.2 Selection for resettlement to the UK is based on the following aspects:

- Refugee status (not an asylum claim as such)
- Need for resettlement
- Security screening
- Family screening

- Health screening

Refugee status

- 4.3 Caseworkers should generally accept UNHCR's assessment of Convention status unless there is good reason not to. Good reasons not to accept UNHCR's assessment of refugee status include, but are not limited to:
- Clear and significant inconsistencies within the information contained in the UNHCR Resettlement Referral Form (RRF) or between information provided by the applicant and known country information.
 - Information provided by the applicant in one of the other sections of the interview (Need for resettlement, Security screening, Family) casts strong doubt over the veracity of material aspects of the resettlement applicant's account of events.

Acceptance of UNHCR's assessment of Convention status is conditional on the fact that an applicant and/or dependant does not fall within the exclusion clauses within Convention. Consideration of this aspect is set out in more detail in sections 4.6 to 4.8.

Need for resettlement

- 4.4 Caseworkers should be satisfied that the applicant is in need of resettlement, according to UNHCR's criteria, which are:
- Because their life, liberty, safety, health, or other fundamental human rights are at risk in the country where they have sought refuge; or
 - To provide a durable solution if the applicant's situation is not secure in the long term (they may not have immediate protection concerns);
- 4.5 Specifically, an applicant may:
- Have legal or physical protection needs;
 - Be a survivor of violence and torture;
 - Be a woman at risk;
 - Lack local integration prospects;
 - Be elderly (and in a situation that makes them particularly vulnerable);

Exclusion and Security screening

Exclusion

- 4.6 Screening will be conducted for the principal applicant and dependants, and considered against the exclusion provisions of Article 1(F) of the 1951 Refugee Convention. Caseworkers should also consider if there is any evidence that an applicant and/or dependant may have committed serious crimes or represent national security threats, within the meaning of Article 33 (2) of the Convention.
- 4.7 If caseworkers have reason to suspect that the applicant, or dependant, has been a combatant in a civil war or international conflict, checks should be made with relevant authorities to ensure that the applicant is not wanted for war crimes, or otherwise in connection with their military service. Checks should also be made with relevant authorities if there is suspicion that the applicant, or dependant, may have been politically responsible for military conduct.
- 4.8 If an applicant or dependant is considered to meet the exclusion provisions in the 1951 Refugee Convention then their application for resettlement should be refused on this basis.

Security Screening

- 4.9 Where a caseworker has serious reasons for believing that the applicant (or dependant) has committed a crime or act that does not fall into one of the Refugee Convention's exclusion provisions but considers that admission would still be non-conducive to the public good then the application for resettlement should be refused on this basis.
- 4.10 An applicant (or dependant) shall be excluded from the Gateway Protection Programme where the Secretary of State deems that their presence in the United Kingdom is not conducive to the public good, for example on national security grounds, because of their character, conduct or associations. In particular, if a person engages in one or more unacceptable behaviours this will justify their exclusion from the programme. The list of unacceptable behaviours includes using any means or medium including:
- writing, producing, publishing or distributing material
 - public speaking including preaching
 - running a website or
 - using a position of responsibility such as teacher, community or youth leader
- to express views which:
- foment, justify or glorify terrorist violence in furtherance of particular beliefs
 - seek to provoke others to terrorist acts

- foment other serious criminal activity or seek to provoke others to serious criminal acts, or
- foster hatred which may lead to inter-community violence in the UK.

This list is indicative, not exhaustive.

Family screening

4.11 Please see section 6 on dependants.

Health Screening

4.12 Please see section 7.

Credibility

- 4.13 Caseworkers may examine an applicant's credibility in relation to any aspect of the selection process outlined in sections 4.3 to 4.11 in order to be satisfied that the relevant criteria are met. However, credibility in respect of an applicant's refugee status may only be tested where caseworkers have good reason to do so (see section 4.3).
- 4.14 Where caseworkers have doubts over an applicant's credibility, the doubts should be put to the applicant who should then be afforded the opportunity to explain the reasons behind their actions or statements. However, questioning should be limited to examination of the point(s) where credibility is in doubt.
- 4.15 When making a decision on an applicant's credibility caseworkers should be mindful of the following:
- a. In circumstances where the applicant has not been given the opportunity to explain inconsistencies in the interview then care should be taken by caseworkers about using any unexplained inconsistencies in their decision.
 - b. Any mitigating circumstances and explanations provided by the applicant in relation to doubts on their credibility.
 - c. In relation to an applicant's refugee status, it should be noted that question marks over an applicant's credibility will not affect their entitlement to protection under the Refugee Convention if other evidence demonstrates that they have a well founded fear of persecution for a Convention reason in their country of origin.

- 4.16 An application for resettlement may be refused where a caseworker's doubts over the applicant's credibility are such that the caseworker isn't satisfied that the criteria for resettlement (see section 4.2) are met.

Decision

- 4.17 Any decision to accept or refuse an application should be approved by a senior caseworker. In circumstances where a senior caseworker has acted as the interviewing officer the final decision should be approved by a different senior caseworker or a more senior official.
- 4.18 Caseworkers must follow Section 9 if accepting an application and Section 10 if refusing an application.
- 4.19 Acceptance for resettlement is on the condition that no new information emerges, before an applicant travels to the UK, which would have resulted in a refusal if it were known before the initial decision was made. Where any such information does emerge, caseworkers should re-assess the application in accordance with 4.3 to 4.11 and also take into account the General Conditions outlined in Section 5. Caseworkers should also take any mitigating circumstances into account. If it is considered appropriate to refuse the application then caseworkers should follow Section 10.3.

5. GENERAL CONDITIONS

- 5.1 Caseworkers should also take into account the following factors, which should be balanced against the individual's personal circumstances, including their need for resettlement:
- a. Whether the scheme is able to meet the resettlement integration needs of the applicant and/or their dependants (here caseworkers may need to seek advice from RABS);
 - b. Whether resettlement to the UK may be contrary to the best interests of the applicant and/or their dependants (see section 6 below on whether a dependant should be admitted for resettlement); and
 - c. Whether the case is linked to that of a dependant, someone upon whom the principal applicant is dependant, or a relative (in which case the impact of refusal or acceptance should be taken into account).

Caseworkers may conclude that it is inappropriate to offer resettlement for one of the above reasons, in which case the application should be refused.

- 5.2 Throughout the resettlement process applicants (and dependants) must:

- a. Co-operate with UK officials, UNHCR, and any other body involved in the UK Gateway Protection Programme (including by complying with anti-fraud procedures, by participating in the Home Office interview, health screening and by adherence to travel arrangements).
- b. Disclose all material facts which may influence a decision on their resettlement application
- c. Not make any false representations which may influence a decision on their resettlement application
- d. Notify relevant authorities about any change in circumstance at the earliest opportunity (for example a change in the dependants listed on the resettlement application form)
- e. Not be in a polygamous marriage; and
- f. Not have an active application lodged for entry clearance or for resettlement under the Mandate scheme or Ten or more plan.

Any mitigating factors should be taken into account.

5.3 The UK fully supports UNHCR's steps to combat fraudulent activities relating to the resettlement process. All necessary steps will be taken to combat and investigate allegations of fraud and corruption, in particular with regard to any individual:

- a. Who has been identified as gaining from preferential access to the resettlement process including via the solicitation of funds or non-monetary benefits
- b. Who has fraudulently misrepresented family composition
- c. Who has furnished false identity, resettlement or travel documents
- d. Provided or benefited from coaching

Caseworkers should note that where, in particular, 5.3(a) has occurred it will be necessary to conduct further investigation through UNHCR London to determine whether corruption or institutional breakdown has occurred in the applicant's current country of refuge. The process outlined in 5.4 should be followed to assist in determining the level of culpability of an applicant.

5.4 Failure to comply may result in an application being refused. However caseworkers should take note of the following:

- a. If it has become apparent during the selection mission that one of the factors outlined in 5.2 or 5.3 has occurred then, wherever possible, the applicant and/or dependant should be provided with an opportunity to explain his/her actions.
- b. If one of these factors has come to light since the mission then caseworkers should take account of any explanation provided by the applicant and/or UNHCR.

Any mitigating factors should be taken into account.

6. DEPENDANTS

- 6.1 Applicants must disclose all relatives (i.e. immediate family, siblings, parents and any relative still in the country of current resettlement).
- 6.2 The spouse or civil partner and children (under 18) of a principal applicant will normally be treated as the applicant's dependants in his or her application for resettlement. Caseworkers should however be satisfied that the relationship is genuine and subsisting and that both parties intend to live together permanently.
- 6.3 Unmarried partners may also be included as part of a resettlement application provided:
 - a. they have been living together in a relationship akin to marriage which has subsisted for two years or more
 - b. that they also intend to live together permanently.
 - c. that any previous marriage (or similar relationship) by either partner has permanently broken down;

In circumstances where unmarried partners have not been living together for two years but there is strong evidence to suggest that the relationship is genuine and subsisting then the application may be accepted. Caseworkers must however be satisfied that the requirements of 6.3(b) and (c) are met.

- 6.4 UK Border Agency officials should always confirm with the principal applicant at interview whether his/her spouse/unmarried partner and minor children are dependants for the purposes of the resettlement application.
- 6.5 If an interviewer has serious doubts concerning the relationship between the principal applicant and a declared child dependant, then they may also ask the applicant and the child to undertake an optional DNA test to prove the parental relationship. Any request to DNA should be agreed by the officer who is in charge of the mission. If an applicant and/or dependant refuses to take a DNA test then caseworkers should make a decision based on the information available to them.

- 6.6 In the event that dependants of a principal applicant do not meet the criteria for resettlement or fail to meet one of the general conditions in section 5, then a decision should be taken on whether to refuse the dependant or to separate the family. This may also apply to linked cases. Each case should be considered according to its individual circumstances.
- 6.7 When considering whether to include non-immediate family members (including children over 18, nieces, nephews, siblings) as a dependant of the principal applicant, caseworkers should take into account:
- a. Whether the dependant is part of a pre-existing family group;
 - b. Family relationship to the principal applicant;
 - c. Any doubt that the relationship is genuine, and as claimed;
 - d. Impact on the dependant, financially and psychologically, if they were/were not resettled with the principal applicant. The impact on the principal applicant and other accepted resettled dependants should also be taken into consideration;
 - e. Whether the dependant has another closer relative whom they have been living with (this is to apply to both current and recent arrangements). In these circumstances the dependant should not be accepted unless there are strong reasons for splitting up the existing family unit.
- 6.8 If the caseworker has any concerns that a dependant may be placed at risk by being resettled with the referred family then the mission leader should be notified and the case discussed further with UNHCR and IAPU to determine the most appropriate way forward. Where information of concern is received after the mission but before arrival then caseworkers should contact UNHCR for further advice before making a decision.
- 6.9 Caseworkers should not normally accept a dependant who is not declared until after the principal applicant's interview with UK Border Agency caseworkers. However, if the resettlement application is granted, the dependant may be eligible to apply for family reunion.

7. HEALTH STATUS

This section is subject to review

- 7.1 Health screening will be conducted for all applicants, and their dependants. Caseworkers should note that some health information will be included for the benefit of the Primary Care Trust in which the applicant will be living, should they be successful.

- 7.2 Resettlement should not be offered when, in the opinion of the medical examiner, the individual has a disease or illness, which, for the individual's own health, or for public health reasons, currently precludes travel, or requires treatment before travel. Resettlement may be offered to such individuals once, in the opinion of the medical examiner, this ceases to be the case.
- 7.3 Resettlement should not be offered to applicants, or dependants, with HIV/AIDS, Multi-Drug-Resistant-TB, or established renal failure without Ministerial consent. Resettlement may not be offered where the applicant, or a dependant, has a different medical condition which constitutes a danger to public health or a disproportionate cost to the Gateway Protection Programme. Decisions in these cases should be referred to ministers unless the applicant or dependant concerned also fails to meet one of the resettlement criteria in sections 4 to 6.

8. INTERVIEW

- 8.1 A UK Home Office official will interview all principal applicants and, if appropriate¹, their dependants, to assist the caseworker in making their decision by testing and supplementing information passed to the UK Border Agency by UNHCR. The interview will be used to supplement the information given in the Resettlement Registration Form as well as to gather information regarding integration and support needs.
- 8.2 Interviews with children must be conducted only by members of staff who have been trained to interview children, and must be undertaken in the presence of another adult (other than a member of UK Government staff), considered appropriate by UNHCR. Child dependants will generally only be interviewed to verify their relationship with the principal applicant, and to confirm integration needs.

9. ACCEPTING FOR RESETTLEMENT

- 9.1 If a person is accepted for resettlement, caseworkers should write to the applicant, via UNHCR, informing them of their decision and next steps (see standard letter). Entry clearance, travel documentation, any pre-departure health treatment, cultural orientation, and travel should be arranged through IAPU/RABS and contracted organisations responsible for those services.
- 9.2 All persons accepted on the programme will be recognised as Convention refugees and will be granted indefinite leave to enter on arrival in the UK. Leave to enter the United Kingdom under the Gateway Protection Programme is granted exceptionally, outside the Immigration Rules. Dependants will be granted leave to enter in line with the principal applicant.

¹ Taking into account their youth, and any perceived need to establish whether a claimed family link is genuine.

10. REFUSING AN APPLICATION FOR RESETTLEMENT

- 10.1 If it is decided to refuse an application, the caseworker should write to the applicant, via UNHCR, explaining their decision and the reasons for it.
- 10.2 There is no right of appeal against a decision to refuse an application for resettlement.
- 10.3 If a decision to refuse has been taken in line with Section 4.19 then caseworkers should write to the applicant, via UNHCR, to explain their reasons for the change in decision.

11. RECONSIDERATION OF CASES

- 11.1 If an applicant's circumstances change or if new information comes to light, which would affect the decision of the caseworker then UNHCR may re-submit cases which have previously been refused for reconsideration. If a case is re-submitted, this will not count as a new or additional case. However, it should be reconsidered afresh against the resettlement criteria.

Enquiries: Further enquiries should normally be made in writing, to the International Asylum Policy Unit.