Although most volunteer roles are not focused on giving immigration advice or advising on the asylum process, a basic understanding of the UK’s approach to asylum and immigration can be useful. Immigration advice should only be undertaken by people who have relevant training and expertise.

What is the difference between a refugee, a migrant and an asylum seeker?
Refugees are defined and protected by international law (1951 Refugee Convention). A refugee is a person with a well-founded fear of persecution who is outside the country of their nationality and is unable or unwilling to access the protection of their country.

An asylum seeker is someone who makes a request for international protection because they believe they are at risk of persecution, and a decision is yet to be made about their claim.

A migrant is someone who chooses to move, not because of a direct threat of persecution or death, but mainly to improve their lives by finding work, for education, joining family or other reasons.

For more information, visit The UN Refugee Agency website.

How do people claim asylum?
People who have a well-founded fear of persecution should claim asylum in the first safe country they arrive in after leaving their home country.

Where a person has illegally entered the EU (eg from the Balkans or across the Mediterranean) it is likely that the country responsible for processing the asylum claim will be the first EU country they arrived in (Dublin Regulation).

If a person enters the UK and claims asylum having travelled through an EU country, their claim will not normally be considered and they will be returned to the first EU country they arrived in.

Under UK Immigration Rules it is possible to declare a claim for asylum invalid if there is an alternative safe third country for the claimant, or a first country of asylum in which the claimant would receive protection.

When may it be illegal for someone to enter the UK?
To protect people from exploitation and dangerous travel linked to organised immigration crime, the UK Immigration Act 1971 and the Modern Slavery Act 2015 prohibit offences relating to unlawful entry into the UK (eg smuggling a person in a car or providing them with false documents) and arranging or facilitating the travel of another person for exploitation.

Non-UK nationals without appropriate clearances may only enter the UK if they make an application for entry (see how to apply for a UK visa).

Asylum: How can people enter the UK legally?
If a person enters the UK having travelled through an EU country and claims asylum in the UK, the UK will not normally consider their asylum claim and will return them to the first EU country they arrived in (Dublin Regulation).
However, under a number of resettlement programmes, the UK takes some people who have been recognised by the UNHCR as refugees and resettles them in the UK; facilitating them legally and safely directly from the region where they have been displaced, rather than them considering dangerous, illegal journeys. In order to benefit from this scheme, the refugee must be deemed especially vulnerable (for more information on resettlement, visit the [Refugee Council website](https://www.refugeecouncil.org.uk)).

If a person does not have a fear of persecution, but wishes to enter the UK on family grounds, then he or she should seek entry to the UK under the [Immigration Rules](https://www.gov.uk/government/publications/immigration-rules).

### What is the UK Government’s position on unaccompanied children who seek asylum?

If an unaccompanied asylum-seeking child in an EU country has family members in the UK, the child should first claim asylum in the EU country they are in. That country may then make a ‘take charge’ request to the UK, and the child may be transferred to the UK for their asylum claim to be considered in the UK ([Dublin Regulation, Article 8](https://www.legislation.gov.uk/ukpga/2013/28/section/8)).

The UK also operates a scheme to relocate children from France, Greece and Italy to the UK under section 67 of the Immigration Act 2016. Children must have been in Europe before 20 March 2016 to be considered for referral.

### What is the UK Government position on family members seeking asylum?

If a person in an EU country has family members in the UK who have been granted international protection in the UK (or claimed asylum but not yet been given a decision), they should first claim asylum in the EU country they are in. The EU country may then make a ‘take charge’ request to the UK, and they may be transferred to the UK for their asylum claim to be considered in the UK ([Dublin III Regulation, Articles 9-11](https://www.legislation.gov.uk/ukpga/2001/46/section/9)).

### What happens to people who enter the UK without permission?

Entering the UK without permission is a criminal offence and immigration authorities will take up the matter through criminal proceedings. This may result in a two-year prison sentence and a fine. A person may also be removed from the UK.

If an application to enter or for leave to remain in the UK is sought or obtained by deception, this is a criminal offence which could mean a sentence of up to two years, a fine or both.

If a person enters the UK without permission and is removed – either to their country of origin, to another EU country or to any other safe country – any application made to re-enter the UK for the next 10 years is likely to be refused ([Immigration Rules, paragraph 320](https://www.gov.uk/government/publications/immigration-rules)).

### What are the consequences of assisting illegal entry into the UK?

We know that volunteers are keen to help those who are in need. However, it’s important to be aware of the possible consequences of assisting illegal entry into the UK.

Under the UK Immigration Act 1971, it is an offence to assist unlawful immigration. ‘Assisting’ includes any act of facilitating a breach of immigration law by a non-EU citizen, eg concealing an individual in a vehicle, providing false documents or assisting someone to remain by deception (sham marriages) or other forms of assistance which facilitates a breach of the Immigration Act.

A person commits an offence if they knowingly and for material or other gain facilitate the arrival or entry into the UK of an individual and know, or have reasonable cause to believe, that the individual is an asylum seeker. This does not apply to a person acting on behalf of a legitimate organisation which assists asylum seekers and does not charge for its services. Legitimate organisations working with asylum seekers also need to bring them to the UK through recognised legal routes.

Punishment for assisting illegal entry is a maximum prison sentence of 14 years, a fine or both. This is a consequence we wish all volunteers to be mindful of and avoid.

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