Dear Bob,

RE: PROSECUTIONS UNDER SECTION 121 ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

Thank you for your letter dated 30 January 2019 in which you raise questions about guidance to prosecutors concerning section 121(1) and (2) Anti-Social Behaviour, Crime and Policing Act 2014 ("section 121"). I welcome your interest in this serious offence. May I emphasise at the outset that if in an individual case there is a concern about a particular CPS decision, then that should be raised with the CPS Area which made the decision through the established procedures available to victims, the police or otherwise in correspondence.

You are correct to state that allegations which involve a victim who has advanced dementia and who has entered into a marriage would fall to be considered under section 121, although they may also be considered by investigators and prosecutors under other provisions, for instance the Fraud Act 2006. The CPS has not, to date, brought a section 121 prosecution based on such an allegation. I do not consider that to be a reflection of the law or the legal guidance in this field. The law, which investigators and prosecutors will apply to any allegation they consider, is clear. However, we keep our legal guidance under continuous review. We want to ensure it provides all the assistance it can to our prosecutors and stakeholders. Therefore, we will undertake a review of our Honour Based Violence and Forced Marriage legal guidance, and the process of revising our Crimes Against Older People legal guidance is already underway. We will notify the Committee through your clerk of any revisions we make to the guidance.
I am grateful for the opportunity to set out some further observations on this topic. The CPS takes the prosecution of forced marriage allegations seriously. Each CPS Area has a specialist single point of contact (SPOC) to drive up performance, identifying casework and policy challenges and how they can be overcome. Continuous improvement in this field is led by the recently-appointed CPS lead for Honour Based Violence and Forced Marriage, Chief Crown Prosecutor Jaswant Narwal. In May 2018 the CPS secured the first successful prosecution for this offence.

At a national level there exists a joint police and CPS forced marriage working group, which has developed a protocol for investigations and prosecutions as well as training for prosecutors. The CPS has invited Rachael Clawson, Assistant Professor of Social Work at the University of Nottingham, to join the working group. Rachael will consider how the CPS deals with cases of forced marriage where victims have mental capacity issues. She has also agreed to work with the CPS to produce "How-to Guides" to support learning about capacity which is directly relevant to this area, namely section 121(2), about which you are concerned.

I hope that this letter assists in addressing the issues you have raised.

Yours ever,

MAX HILL QC
DIRECTOR OF PUBLIC PROSECUTIONS