



Joint Committee on Human Rights

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From Dr Hywel Francis MP, Chair

The Rt Hon Theresa May MP,
 Secretary of State for the Home Department,
 Home Office,
 2 Marsham Street,
 London, SW1P 4DF

Tuesday 12 November 2013

Dear Theresa,

Immigration Bill Part 4

The Joint Committee on Human Rights is continuing its scrutiny of the Immigration Bill in light of the requirements of human rights law. Further to my letter dated 30 October about Parts 1 to 3 of the Bill, I would be grateful if you could answer the following questions about Part 4, concerning sham marriages and civil partnerships.

The need for further legislation

Q1: What evidence does the Government rely on to demonstrate that the provisions in the Remedial Order 2011 have proved inadequate in practice to deal with the problem of sham marriages and civil partnerships?

Q2: What is the basis for the Home Office's estimate that 4,000 to 10,000 applications a year to stay in the UK are made on the basis of a sham marriage or civil partnership?

Extended notice period

The Bill extends from 15 to 28 days the period for giving notice of all marriages, not just those involving a non-EEA national. The Government's factsheet on sham marriages explains that the notice period is being extended for everyone "to ensure that the scheme is compatible with equalities legislation." The Government seeks to justify other differences of treatment on grounds of nationality and immigration status in this Part of the Bill, however, such as the Secretary of State's power to investigate and the extended 70 day period where such an investigation takes place, on the basis that the difference of treatment is justified by the need to maintain immigration control.

Q3: Please explain in more detail why in the Government's view equalities legislation requires the notice period to be extended from 15 to 28 days for all

marriages and civil partnerships, when it considers other differences of treatment in this Part of the Bill to be reasonably and objectively justified.

Intelligence-based risk profiles and factors

The Government envisages that where a marriage or civil partnership is referred to the Secretary of State under the provisions in the Bill, the Home Office will identify suspect proposes marriages or civil partnerships by running the referral against "agreed intelligence-based risk profiles and factors."

Q4: What criteria does the Government propose to use to identify suspect marriages or civil partnerships in the proposed "intelligence-based risk profiles and factors"?

Q5: How does the Government propose to ensure that the risk profiles it uses do not include unjustifiably discriminatory assumptions based on nationality or immigration status?

Q6: Will the Government consult the Equality and Human Rights Commission when designing the intelligence-based risk profiles that it intends to use?

Q7: Will the agreed intelligence-based risk profiles and factors that the Home Office uses to identify suspect marriages or civil partnerships be published?

Consequences of non-compliance with investigation

The Bill provides that where an investigation establishes that a proposed marriage or civil partnership is a sham, the parties are nevertheless free to marry: the consequences are for their immigration status, not their freedom to marry. However, the Bill provides that where the Secretary of State decides that the parties have failed to comply with the investigation, they cannot get married.

Q8: Please explain why the Bill provides that the consequence of non-compliance with the Secretary of State's investigation is that the parties are not able to marry. Would the aim of this Part of the Bill be achieved if the consequences of non-compliance with the investigation were confined to immigration status, rather than freedom to marry?

It would be helpful if we could receive your reply to these questions by **Wednesday 27 November 2013**. I would also be grateful if your officials could provide the Committee secretariat with a copy of your response in Word format, to aid publication. I look forward to hearing from you.



Dr Hywel Francis
Chair