



Home Office

**Border &
Immigration Agency**

MARRIAGE TO PARTNERS FROM OVERSEAS

A CONSULTATION PAPER

December 2007



CONTENTS

| | |
|--|----|
| Foreword | 3 |
| SECTION 1 How to Respond | 4 |
| SECTION 2 Context | 5 |
| Issue 1 – Some people are pressurised into sponsoring marriage visas | 5 |
| Issue 2 – Ability to give a confidential statement | 7 |
| Issue 3 – People who are abandoned by the person they sponsor | 8 |
| SECTION 3 The Consultation Questions | 9 |
| ANNEX A Table 1 – The Forced Marriage Unit | 11 |
| Table 2 – Average age at time of first marriage | 11 |
| Table 3 – Number and proportion of those aged 21 or under coming to the UK for marriage | 12 |
| ANNEX B Consultation criteria | 13 |
| ANNEX C Contact for comments and complaints | 13 |

FOREWORD



This consultation paper fulfils our promise made in our strategy “Securing the UK Border” (March 2007) to consult on new arrangements for marriage visas.

We believe that spouses coming to the UK from abroad do best in Britain when there has been a real preparation for life in the UK. Many of the proposals here are therefore aimed at ensuring that foreign nationals who come to marry and live in Britain do so happily and successfully. We believe this means having the skills to participate in British life, and to be able to satisfy the requirements to either settle or become a British citizen.

We also recognise that increased protection against coercion and potentially violent or abusive situations is called for. The problem of forced marriage has not disappeared and so we feel it is right to take measures to protect vulnerable people from these pressures.

A handwritten signature in black ink that reads "Liam Byrne". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Liam Byrne MP

Minister for Immigration, Nationality and Citizenship

SECTION 1

HOW TO RESPOND

- 1.1 The aim of this consultation paper is to seek a range of views to inform some changes to the arrangements governing the issue of marriage visas and to applications for settlement based on such a visa.
- 1.2 We want to change practice in this area so that those who are at risk of being pressurised into marriage to a partner from overseas are protected, and that these visas are not abused.
- 1.3 **The consultation period for responding to this document ends on 27th February 2008.** We will publish the results of the initial consultation within three months of the deadline for responses.
- 1.4 This is very much an initial consultation. We intend to arrange meetings with key stakeholders for comment and discussion as the work progresses.
- 1.5 Regulatory impact and race equality impact assessments will be prepared to support these later stages of the consultation process.
- 1.6 A pro forma is available in electronic format on the Border and Immigration Agency website: www.bia.homeoffice.gov.uk/lawandpolicy/consultationdocuments/
- 1.7 Responses should be sent electronically to: **marriageconsultationresponses@homeoffice.gsi.gov.uk**
- 1.8 Responses can also be sent by post to:
Marriage Consultation Responses
Border and Immigration Agency
11th Floor
Apollo House
36 Wellesley Road
Croydon CR9 3RR
- 1.9 You should contact the address above if you require a copy of this consultation paper in any other format, eg Braille, large font or audio.
- 1.10 Individual responses will not be acknowledged unless specifically requested.

RESPONSES: CONFIDENTIALITY & DISCLAIMER

- 1.11 The information you send us may be passed to colleagues within the Home Office, the Government and related agencies. Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 1.12 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a Statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with the obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. An automatic confidentiality disclaimer generated by your IT system will not, by itself, be regarded as binding on the Department.
- 1.13 Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.
- 1.14 Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.
- 1.15 The Department will process your personal data in accordance with the DPA – in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

SECTION 2 CONTEXT

- 2.1 The Government believes immigration policy in the UK must be set to support national interest. In early 2008, we will introduce a points system for those wishing to work and study. Now we are updating our policies for those who wish to marry a British citizen or person settled here.
- 2.2 This consultation, therefore, centres on those migration routes where to become married or being married is the only basis of entry to the UK. The Government is aware that this is a topic with many sensitive aspects, but three principles stand out as important:
- **No-one should be pressurised** into sponsoring a marriage visa;
 - Those who wish to sponsor a marriage partner from overseas should be **encouraged to establish an independent adult life here first**, and to see that as an important way of helping their partner to integrate;
 - **Spouses who are abandoned by a person they have sponsored have entitlements too**, including knowing that their sponsorship is not being abused for further advantages.
- 2.3 In the end, forced marriage is a form of aggression that puts women in particular at risk of harm and of being exploited. The Government cannot take a passive stance on this issue. This would be inconsistent with what it is doing for other victims of violence and exploitation, for instance the exploitation of women from Eastern Europe. It would also be failing to appreciate what other governments, who recognise the problem, have said about violence with an 'honour' motive.
- 2.4 Those who are forced to marry may live in an unhappy marriage and have their education or employment disrupted or ended. They may have to divorce to try to escape their difficult situation and some will be abandoned once their spouse obtains permanent residence (settlement) as a result of the marriage.

Case study 1:

A. was 19 years old when she was forced to marry her second cousin, a man 19 years her senior who had travelled to the UK from Bangladesh to work in her uncle's restaurant in London. Following the marriage A. was forced to sponsor her husband's spouse visa. After 9 months of one to one support from a Forced Marriage Unit caseworker, A. was able to leave her forced marriage. She had been raped on several occasions. A. started a new life in a different part of the UK and changed her identity. She provided a statement to the Immigration Service, informing them that she had been forced into marriage and withdrawing her sponsorship of the visa. Her husband chose to leave the country voluntarily. A. was later reconciled with her family. A. is one of the lucky ones.

Witness; provided by the Forced Marriage Unit

ISSUE 1:

Young people may be pressurised into sponsoring a partner from overseas

- 2.5 The Home Office together with the Foreign and Commonwealth Office has already made some progress in tackling forced marriage by creating the Forced Marriage Unit in 2005. The Unit receives 5,000 calls to its helpline every year, and handles up to 300 cases per year, some of which involve men but the vast majority involve women. Around a third of the cases involve children, some as young as 13. The fact that it is still seen as a problem suggests that more needs to be done.
- 2.6 The heart of the problem is when young or otherwise vulnerable women feel under pressure to become involved in sponsoring a partner from overseas. They do not want to upset or alienate their family or friends, yet they also know that they cannot do what is being asked of them. The Government is committed to being sensitive in exploring different options, and we hope others will be just as committed to finding constructive solutions.

SECTION 2
CONTEXT (CONTINUED)

- 2.7 The Government does see benefits in requiring people to take time to establish themselves through a period of higher education or work in the country to which they belong before seeking to sponsor a marriage partner from overseas.
- 2.8 Hence one of the proposals we are suggesting is that the minimum age at which you can sponsor a person from overseas to come to this country for marriage be raised from 18 to 21. The same would apply to the person being sponsored.
- 2.9 The average age at first marriage is going up in the UK and is now around 29 for women and 32 for men according to the Office for National Statistics¹. Our proposal has to be judged against that in terms of whether it is reasonable or not.
- 2.10 Where one of the partners is from overseas, we consider that sufficient time should be allowed for the person in the UK to have completed their education, as well as allowing them to gain in maturity and possess adequate life skills. That will help them to navigate the different pressures and opportunities that they face and should help them prepare to participate in the social and economic opportunities around them in this country.
- 2.11 It is not, therefore, an absolute restriction on the right to marry or to marry partners from overseas – it is simply asking individuals to establish themselves as an adult with the skills to look after themselves and their future in the UK first. There are possible risks with this approach, for instance, that young girls might be taken from the UK to live overseas until they were old enough to sponsor someone, there would be more time in which to pressurise someone, and there may be a resort to forged documents, particularly birth certificates instead.
- 2.12 We also want to look at whether asking someone to declare their intention to sponsor a partner from overseas before they leave the UK to get married will reduce pressure and give people a

better chance to avoid a forced marriage in the first place. Such an arrangement would mean that a young person would know in advance that a marriage will take place overseas and who their prospective partner will be. Many spouses currently only discover these facts overseas when their wedding is imminent and when they are in a vulnerable position in a foreign country away from their support network and the authorities. Finding out that they will be a bride or groom before travel gives them more options to seek help prior to the actual marriage.

Case study 2:

J. travelled to Pakistan for a family wedding, he had a girlfriend and child at home in the UK and had been reluctant to leave them. He had kept his girlfriend and child secret from his family, as they were not of the same religion and he knew his family would disapprove. On arrival in Pakistan he was told that the marriage he was attending was in fact his own. He had been engaged to his cousin without his knowledge since the age of six, the couple had met briefly at this tender age and were not to see each other again until the wedding day. J. felt he had no choice but to go through with the marriage, and after promising to sponsor the visa, he was allowed to return to the UK. J. contacted the Forced Marriage Unit for assistance. Unfortunately J. was unable to make a statement to the authorities in order to get the visa stopped, due to the level of violence he was subjected to at home. On the strength of J's confidential contact with the Forced Marriage Unit, the visa was initially refused, but this decision was overturned at appeal. J's wife arrived in the UK several weeks later, and within days J. had attempted suicide.

Witness; provided by the Forced Marriage Unit

¹ See table in annex A

ISSUE 2:

Many sponsors would like to be able to give a confidential statement

- 2.13 In addition, we want to look at what opportunities there might be for views to be given in confidence. Many young women have said they would like the opportunity to relay their own views and concerns about the motives for the visa application to someone in authority such as the Border and Immigration Agency, UKvisas or Embassy abroad.
- 2.14 On its own a confidential statement that could not be produced as evidence (for instance, because the applicant does not wish to alienate family members) may not lead to a visa application being turned down, but it may help to identify other issues or patterns that could be helpful in resolving that and future cases.
- 2.15 We want to explore whether the opportunity of a confidential interview would be helpful to the sponsor and whether there are particular features of cases that would make this desirable. We are not proposing interviews about the genuineness of the relationship, but we would offer young women in particular, an opportunity to make a confidential statement about their sponsorship.
- 2.16 This may not be easy to achieve, but it goes to the heart of the problem – young or otherwise vulnerable women feeling under pressure from their families, not wanting to upset or alienate these family ties, yet knowing that they cannot do what is being asked of them. The Government is committed to being sensitive in exploring solutions.
- 2.17 We are also considering introducing a Code of Practice, which would say how an application for a marriage visa should progress if one of the parties is identified as being vulnerable to a forced marriage. Factors indicating vulnerability might include significant disparities in:

- age;
- in the main language spoken;
- in education; and
- in time spent in each others country.

There would be a power to refuse on those grounds alone, without the sponsor having to provide an evidential statement.

- 2.18 At appeal, it would be incumbent on the Immigration Judge both to follow the guidelines in the Code and to ensure that the applicant was able to establish that vulnerability had not played a part. The Immigration Judge might also be able to seek the views of the Forced Marriage Unit on a case and give weight to them; or say why these had not been sought.

Case study 3:

S. is a 27 year old woman with mental health difficulties. She contacted the Forced Marriage Unit with the help of a former teacher. She told us that she had been taken back home to India for a family holiday and on arrival she had been forced to marry a cousin of her sister-in-law. She said that the man had raped her and that she was pregnant, she was extremely traumatised. S.'s family were forcing her to sign forms that she did not understand, we found that they were application forms for her husband's visa. She was terrified of what he might do to her if he was allowed into the UK. The Forced Marriage Unit worked with UK Visas to investigate this case. We found that S. had been previously married to four other men in India; she had never been divorced from any of them, her parents had lied to her and told her that they had arranged the divorces – she had believed them. On each occasion sums of money had been paid to her parents.

Witness; provided by the Forced Marriage Unit

ISSUE 3:

Spouses who are abandoned by a person they have sponsored have entitlements too, including knowing that their sponsorship is not being abused for further advantages

- 2.19 We also want to consider making it much more difficult for someone who has obtained settlement on the basis of marriage and then abandoned their partner, to continue to benefit from settlement.
- 2.20 When this happens it is devastating for the person concerned and it undermines confidence in our immigration laws. Even though this happens after settlement has been granted, we feel we should still be able to act in the same way as if any other avenue to settlement had been exploited.
- 2.21 One way is to revoke the immigration status obtained, or to make it liable to revocation for a set period after it has been granted. We are interested in hearing your views on this suggestion.
- 2.22 We also believe that those who sponsor a person to come to this country are entitled to know how their sponsorship has been used. We have increased the information that can be provided to partners who have been abandoned, for instance we will now say whether the person still has leave to remain on the basis of their marriage visa and whether we are going to take any action against them, but we want to see if more can be done in these situations.
- 2.23 For instance, if the person who has abandoned a sponsor wants to sponsor someone from overseas themselves, then the original sponsor should be able to be told about this and to supply any information that they think might be relevant to the new application. Otherwise, spouses who act as sponsors and are abandoned have their role as sponsor ended on the basis of someone else's decision.

- 2.24 A different view is that the person who originally provided the sponsorship is entitled to an assurance that their sponsorship in bringing someone to the United Kingdom has not been abused in any way. This might mean that a subsequent application from the person sponsored is treated as a change of original purpose, rather than circumstances, and that we should endeavour to take into account any views that the original sponsor might wish to provide. We are interested in views on this.
- 2.25 Another scenario is when a spouse is abandoned outside the UK, usually in the country of origin; often children will be involved who are kept in the UK. The issue for us is whether we should make it easier than at present for someone in this situation to come to the UK for custody hearings.

Case study 4:

“Initially, I was scared of making a statement to get his visa stopped. I knew my parents wouldn't want this to happen, but I had to help myself. When I found out he was going to be deported, I felt relieved. I felt the sooner he was gone, the sooner I'd be free.”

Witness; provided by the Forced Marriage Unit

SECTION 3

THE CONSULTATION QUESTIONS

ISSUE 1:

Young people may be pressurised into sponsoring a partner from overseas.

Question 1: Do you think we should increase the minimum age at which someone could sponsor or be sponsored as a spouse, from 18 to 21?

This would allow the young people involved to have completed their education as well as allowing them to have gained in maturity and possess adequate life skills. Although there would be a small delay in the age at which young people could sponsor a partner from overseas, we think that this is not unreasonable.

Question 2: Should someone intending to sponsor a partner from overseas declare this intention before they leave the UK on the visit/trip?

This would also involve providing details of the person to be sponsored before leaving the UK. In this way the sponsoring partner will be protected from having coercive pressure applied whilst they are overseas and help to prevent forced marriages before they happen. Such an arrangement would mean that a young person would know in advance that a marriage will take place overseas and who their prospective partner will be. Many spouses currently only discover these facts overseas when their wedding is imminent and when they are in a vulnerable position in a foreign country away from their support network and the authorities. Finding out that they will be a bride or groom before travel gives them more options to seek help prior to the actual marriage.

ISSUE 2:

Many sponsors would like to be able to give a confidential statement.

Question 3: Should potential sponsors be given more opportunities to have a confidential interview if they request one?

The confidential interview might not lead to refusal of a visa application.

The aim would not be to assess the genuineness of the marriage, but whether sufficient scope had been given to protect the potentially vulnerable party. On its own though, a confidential statement that could not be produced as evidence may not lead to a visa application being turned down.

We are also considering introducing a Code of Practice, which would say how an application for a marriage visa should progress if one of the parties is identified as vulnerable. This would build on work carried out by Entry Clearance Officers in relation to in depth interviews with couples.

Question 4: Do you think we should introduce a Code of Practice as outlined in this consultation paper?

Question 5: We have suggested some of the factors that might indicate vulnerability to a forced marriage (for example, discrepancies in age, main language spoken etc); what additional factors do you think there might be?

Question 5a: If some of the factors that create vulnerability were present, should there be a power to refuse on those grounds alone, without the sponsor having to provide an evidential statement?

ISSUE 3:

Spouses who are abandoned by a person they have sponsored have entitlements too, including knowing that their sponsorship is not being abused for further advantages.

Question 6: Do you think that we should do more to bring about revocation of indefinite leave to remain if individuals abuse the marriage route to gain settlement?

Question 6a: If you answered yes to question 6, what proof do you think might be necessary to do this?

Question 7: Do you think we should be able to revoke indefinite leave to remain after it has been granted if the sponsoring partner is abandoned?

We would have to agree a time period within which we could revoke indefinite leave to remain.

Question 8: Do you think we should do more to investigate allegations of abuse of marriage for immigration advantage after entry?

Question 8a: If you answered yes to question 8, how might these be investigated?

Question 9: What sanctions could we use if individuals abuse the marriage route to gain settlement? Examples could include revocation of indefinite leave to remain, revocation of spouse visa prior to grant of indefinite leave to remain, and refusal of any further leave to remain.

Question 10: What provisions might be necessary for safeguarding women, in particular, after the entry of a sponsored spouse? (For instance; a helpline, access to immigration advice, and support in making statements).

At the moment spouses who act as sponsors and are abandoned have their role as sponsor ended on the basis of someone else's decision. One view is that the person who originally provided the sponsorship is entitled to an assurance that their sponsorship in bringing someone to the UK has not been abused in any way. This might mean that a subsequent application from the person sponsored is treated as a change of original purpose, rather than circumstances, and that we should endeavour to take into account any views that the original sponsor might wish to

provide. We are interested in views on whether this is a good way of providing such an assurance.

Question 11: What is wrong with the current system in relation to abandoned spouses that could be improved?

Question 11a: What changes could be made to improve communications with abandoned spouses? E.g. provide further information to them about further applications or applications for indefinite leave to remain by the person they sponsored, and even seek their views, so that their role as a sponsor is not ended by their being abandoned.

ANNEX A TABLES

Table 1: The Forced Marriage Unit

Key Facts

- The Forced Marriage Unit receives around 5000 calls for general advice every year.
- Around 300 of these calls become cases.
- 25% of cases result in an overseas rescue and repatriation.
- 15% of cases involve men and 30% of cases involve minors.
- The Forced Marriage Unit also works with UKvisas and the Immigration Service to stop visas being granted on the basis of a forced marriage – over 100 from Pakistan alone in this financial year.
- The Forced Marriage Unit runs a substantial national outreach programme, speaking at around 75 events each year to community groups, statutory agencies and the voluntary sector. Last year the Forced Marriage Unit ran a national publicity campaign.
- The Forced Marriage Unit produces guidance for professionals. Earlier guidance was published for police, social workers and education professionals. Guidance for health professionals, registrars, Presenting Officers and lawyers has also been published along with revised guidance for social workers.
- According to the Crown Prosecution Service, 250 girls aged between the ages of 13-16 were taken off the school roll in Bradford during 2006 because they failed to return from a trip abroad.
- In the same year the Metropolitan Police recorded 518 incidents related to forced marriage.

Table 2: Average age at time of first marriage for UK residents is closer to 30 years

| Year | Total | Single men | Divorced | Widowers | Total | Single women | Divorced | Widows |
|--------------------------------|-------------|-------------|-------------|-------------|-------------|--------------|-------------|-------------|
| 2005 ^p Total | 244,710 | 170,890 | 68,130 | 5,690 | 244,710 | 173,920 | 65,430 | 5,350 |
| 16-19 | 1,240 | 1,230 | - | - | 4,270 | 4,250 | 20 | - |
| 20-24 | 20,740 | 20,620 | 110 | - | 37,500 | 36,920 | 570 | 10 |
| 25-29 | 57,300 | 55,780 | 1,510 | 20 | 67,130 | 63,620 | 3,440 | 70 |
| 30-34 | 57,990 | 50,910 | 7,000 | 90 | 51,620 | 41,660 | 9,770 | 190 |
| 35-39 | 38,390 | 25,150 | 13,080 | 160 | 31,610 | 17,120 | 14,170 | 320 |
| 40-44 | 25,220 | 10,450 | 14,480 | 300 | 20,580 | 6,370 | 13,740 | 460 |
| 45-49 | 15,820 | 3,710 | 11,670 | 440 | 13,190 | 2,280 | 10,280 | 620 |
| 50-54 | 10,640 | 1,550 | 8,490 | 600 | 8,460 | 950 | 6,770 | 740 |
| 55-59 | 8,150 | 830 | 6,390 | 930 | 5,200 | 450 | 3,990 | 760 |
| 60-64 | 4,500 | 370 | 3,250 | 880 | 2,780 | 160 | 1,780 | 840 |
| 65-69 | 2,390 | 150 | 1,390 | 850 | 1,290 | 80 | 630 | 570 |
| 70-74 | 1,250 | 100 | 530 | 620 | 640 | 30 | 200 | 410 |
| 75-79 | 650 | 30 | 180 | 450 | 290 | 20 | 50 | 220 |
| 80 and over | 440 | 20 | 60 | 360 | 150 | 10 | 20 | 130 |
| Mean age¹ | 36.2 | 31.7 | 45.5 | 61.6 | 33.6 | 29.5 | 42.6 | 56.2 |
| Median age¹ | 33.6 | 30.7 | 44.3 | 61.7 | 31.1 | 28.5 | 41.6 | 56.8 |

¹ The mean and median ages shown in this table are not standardised and therefore take no account of the structure of the population by age or marital status.

^p Figures for 2005 are provisional.

Note: Single men and single women are those who have never been married.

Figures may not add precisely due to rounding.

Source: Office for National Statistics FM2 Tables 3.15-3.19

Table 3: Number and proportion of those aged 21 or under coming to the UK for marriage

Passengers given leave to enter the UK as husbands, wives, or for marriage, (Excluding EEA and Swiss nationals)

| AGE ON ENTRY | YEAR OF ENTRY | | |
|---------------------------------------|---------------|---------------|---------------|
| | 2003 | 2004 | 2005 |
| 16 | 25 | 35 | 35 |
| 17 | 135 | 75 | 60 |
| 18 | 380 | 240 | 275 |
| 19 | 1,065 | 700 | 1,125 |
| 20 | 1,430 | 1,330 | 1,665 |
| 21 | 1,470 | 1,560 | 1,980 |
| Total under 21 | 4,505 | 3,935 | 5,140 |
| Those above 21 | 25,965 | 31,325 | 36,470 |
| Overall Total | 30,470 | 35,260 | 41,610 |
| Under 21 as % of overall total | 15% | 11% | 12% |

Of these, all ages are represented, but around 12–13% are regularly under 21

Source: Border and Immigration Agency (2007)

ANNEX B CONSULTATION CRITERIA

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These Consultation Criteria are taken from The Code of Practice on Consultation that can be found on the Cabinet Office website at: www.cabinetoffice.gov.uk/regulation/consultation

ANNEX C CONTACT FOR COMMENTS AND COMPLAINTS

CONSULTATION CO-ORDINATOR

If you have any complaints or comments specifically about the consultation *process* only, you should contact the Home Office consultation co-ordinator Nigel Lawrence by email at:
nigel.lawrence@homeoffice.gsi.gov.uk

Alternatively, you may wish to write to:
Nigel Lawrence
Consultation Co-ordinator
Better Regulation Team
Home Office
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF