CONSULTATION ON FAMILY MIGRATION: RESPONSE FROM MIGRATION YORKSHIRE

Introduction

1. We welcome the opportunity to contribute to the UKBA consultation on family migration. This consultation response is submitted by Migration Yorkshire, the strategic migration partnership in Yorkshire and the Humber. Background on Migration Yorkshire can be found at: www.migrationyorkshire.org.uk/aboutus.

2. As a partnership of organisations that cover a wide range of sectors, we have considered the impact of these proposals upon whole communities and across a range of services in Yorkshire and Humber. Therefore rather than answer the specific consultation questions, this submission focuses upon the potential long-term impacts of the family migration proposals upon local communities.

3. Assessing the possible impact of these proposals upon the Yorkshire and Humber region requires an understanding of the scale of this type of migration to our region. While the consultation paper outlines available statistics on family migration to the UK as a whole, there is no data below national level on these categories. As an approximation based on ONS migration estimates more generally, we assume that Yorkshire and Humber probably receives around 10% of these national totals.  

4. This response has been shaped by discussions with the member-led Yorkshire and Humber Local Authority Commission on Asylum and Migration (LACAM), our Strategic Migration Group (SMG) and other migration services. We have not sought direct input from UKBA representatives on the SMG since they belong to the consulting organisation, although they are aware of the relevant discussions that have taken place.

5. Due to the range of organisations we work with, we are submitting some of the responses and questions raised by our partners during discussions on this consultation. Of course, not every individual in each organisation may agree with our submission in its entirety. It is, however, a fair representation of views expressed to us by our partner agencies.

Response to the Consultation

Overall comments

6. In general it is fair to say that organisations in Yorkshire and the Humber support measures that aim to:

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1 Based on ONS data from the Local Area Migration Indicators suite, Yorkshire and Humber received just over 9% of international immigration to England, Wales and Scotland in 2008-9. Further details available from Migration Yorkshire.
• reduce illegal behaviour
• reduce the number of applications to come to the UK that are not genuine
• encourage self-sufficiency among newcomers and their families in the UK
• support the integration of arriving family migrants into their new communities.

7. However, we are concerned that there is little information on the ‘problem’ that the proposals are designed to ameliorate. It is not clear whether the proposals are based on evidence of problems with the family route, or are driven by the objective to reduce net migration. This lack of clarity means some proposals seem inconsistent with others, for example where aims to encourage longer-term integration and cohesive communities (e.g. through language requirements) sit alongside short-term goals of reducing numbers of arrivals (e.g. through longer periods of temporary leave prior to settlement). In turn this raises the question of how to judge whether the proposals are a ‘success’ when implemented; it would be helpful to know how the government will assess the impact of any policy change on family migration.

8. In fact in Yorkshire and Humber, most community issues in recent years concern the arrival of accession state nationals rather than settled communities, and therefore these proposals will not address the principal concerns of our communities, but may even create tensions or problems where they currently do not exist.

9. Some proposals in the consultation papers seem to aim to bring about a uniform effect upon those wishing to bring family to the UK. This is clearly to be welcomed – and the proposals should impact consistently on potential family migrants. However, in practice these proposals will affect migrants from some parts of the world much more than others. Impact will vary according to factors such as the particular country they have ties to, relative levels of income within that country and whether English is the first language of that country. The proposals will have a highly differential impact along these lines on communities with a substantial minority ethnic component, where overseas ties are prevalent and family migration is common. Furthermore, it is important that the proposals are not only fair, but are ‘perceived to be fair’ by communities living in the UK seeking to bring members of their family to join them. If at an implementation level this is perceived as impacting disproportionately on certain groups then this will be bad for cohesion at a local level. We expect an Equality Impact Assessment to consider these issues carefully and give detailed statistics that allow organisations to plan for areas where impact is likely to be disproportionately high.

Entry requirements for a marriage visa

10. We would caution that the proposed ‘attachment to the UK’ requirement for those applying for a marriage visa may be difficult to operationalise in a time where relationships are easily sustained virtually and across borders, and so criteria such as ‘time spent in the UK’ may not reflect true levels of attachment. The proposal does not seem to take into account the reality that it is not unusual, nor is it problematic, for families to have attachments to multiple places and communities at the same time. More details of how this is intended to work are necessary - for example, what would happen to those holding dual nationality?
11. Secondary effects of the proposed marriage visa amendments must be anticipated. While it is difficult to measure these ‘softer’ impacts, their effect upon the community as a whole could be considerable, detrimental, and more difficult to reverse (through future interventions) once lost. For example:

- Genuine couples are likely to become frustrated with a more stringent process as it will appear to penalize them through imposing stricter conditions when they are already perfectly compliant; their feelings of loyalty to the UK could diminish.

- Individuals, whose partner’s future in the UK is in doubt, may be less inclined to participate in their local community (such as taking on significant voluntary roles such as school governor or trustee of a community organisation, or starting up a new business) and remain detached when their long-term future in that place is not assured. This would reduce the number and diversity of community role models and waste valuable local talent.

- Families wishing to reunite in the UK may be physically separated for lengthier periods of time than would happen at present due to the stricter entry conditions (such as a higher minimum income threshold or no longer allowing support from third parties). Such family separation is unlikely to be in the best interests of children in these families, disrupting maintenance of family relationships and hindering educational progress.

Settlement requirements

12. Imposing a standard time period of five years in the UK before an individual can apply for settlement is arguably favourable for parity and administrative purposes. However, it is debatable whether this is just, particularly for couples that have been together for many years and so the genuineness of the established relationship is already proven.

13. Stricter settlement requirements are intended to deter people from coming to the UK on the basis of a non-genuine relationship. However, it is also likely that those in genuine relationships will also be deterred as the UK becomes a less desirable place to settle; the contribution that some of the ‘brightest and best’ could make to the UK will never be realised. Again it will be almost impossible to know what valuable contributions to our society will be missed here (what a loss it would have been to not have welcomed some of the migrants that the UK has in the past), but this trade-off should be acknowledged.

14. Statutory services and the third sector will have to rethink cohesion and integration strategies, as existing approaches will no longer be as relevant in a context where fewer people can stay permanently and many will have to leave in less than five years. Local communities will feel the effect of long-term uncertainty among people with family from abroad. Community tension may arise from increased population churn. While some people may well improve their English levels to meet the settlement criteria after five years of living here, others will feel they have little incentive to become an active part of the community during those uncertain five years. Entrepreneurial families may be discouraged from starting a local business if they are not certain that they will be permitted to stay in the country for more than five years. Children could have a disrupted education, or miss important exams.
The local authority role

15. Additional optional roles for local authorities - to help prevent marriages that are not genuine - are welcome in principle. However, local government would simply not support being granted additional powers and responsibilities without the necessary resources to deliver them. Local authorities would require a guarantee from central government that local taxpayers would not have to pay for delivering any additional services.

16. Local authorities would wish to be involved in the design of any new process for social services to assess individual capacity to understand and consent to marriage if the sponsor of the visa/application has learning difficulties or is particularly vulnerable. The definition of ‘vulnerable’ should be sufficiently wide to go beyond those registered with a disability. New processes should build on existing practice within social service departments. They should also include clear processes to ensure that all relevant information about referrals would be given by UKBA to the assessing department; prior negative experiences of information sharing by UKBA would need to be addressed in order to build confidence in such a system.

17. Data on projected demand for these services would be required at a local level for local authorities to make informed decisions about whether to take on such roles, and for subsequent service planning. Current data about family migration is sparse and at a national level only, and as such is insufficient for these purposes. We strongly encourage the Home Office to provide this data at a sub-national level, or to develop new ways to provide it – for example, through additional questions on an application form about intended place of marriage, or by collating existing information such as the addresses of marriage applicant sponsors.

Refugee family reunion

18. We welcome the specific assurance that there are no proposals to change the arrangements for reuniting refugees (or those with humanitarian protection status) with close family members. We also support the continuation of the July 2011 arrangements for refugees bringing other dependant relatives to the UK i.e. they must meet conditions similar to those for anyone wanting to sponsor such relatives.

19. However we have some concerns that imminent changes to legal aid entitlement will disproportionately affect refugees – for example, those who have close family/dependants and cannot pay for DNA evidence without legal aid, or those who do not fall within the family reunion criteria and who will not be able to sponsor family settlement applications without support.

Changes to family visit visas

20. We would caution that displacing the cost of processing appeals to the applicant, who will have to pay for a new application, will create difficulty for those on low incomes. We therefore support changes to the family visit visa process that improve the understanding of the process among applicants. An analysis of languages spoken by applicants for family visit visas should easily demonstrate demand for translated guidance. UKBA should consider how to support those speaking less common languages as they are more likely to be refused due to not understanding the process or documentation.
21. If the proposed changes result in fewer family visitors to an area, there may be other impacts upon the local economy e.g. upon local businesses providing tourism-related services. Provision of local statistics on family visit visas applied for and granted would be invaluable in anticipating impact at a local level.

Balancing individual rights with the public interest in relation to family migration and returns

22. We would be very concerned about any change to the UK’s adherence to the European Convention on Human Rights per se. Children’s rights are an immediate concern within the objective to deport migrants who have family in the UK. The choice for a family to either separate or live overseas seems at odds with the general encouragement of the family unit in society. The single reference to the UKBA’s safeguarding duty in a footnote of the consultation document suggests that the best interests of the child are not forefront in UKBA’s priorities (a similar concern arises with the proposals to restrict dependants joining family members in the UK. The Home Office should routinely assess whether children under 18 may be put at risk by the decision to refuse an application).

23. We would strongly encourage extensive work with children’s services and other relevant professionals before developing this policy further. The new Family Returns Panel within the asylum process would be an appropriate model to consider replicating for these cases where a parent may be deported with or without their family.

Migration Yorkshire
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