



Speech on Family Migration at Centre for Policy Studies by Immigration Minister Damian Green

15 September 2011

The vast majority of people in this country believe that we need less immigration, and I agree. After years of net migration increasing relentlessly, the figures stabilised in the last quarter of 2010, though at far too high a level. But as well as achieving lower numbers we also need immigration which is better targeted and fairer.

We have been clear that we need to take action across all routes of entry to the UK to fix the broken immigration system we inherited. In doing so, we are determined to bring net migration back to sustainable levels and to bring a sense of fairness back to our immigration system.

We also want a system that supports hard-working families, that helps build stronger communities, and that reinforces responsibilities as well as rights. Those objectives – which the Prime Minister has said must govern our policies across government – are reflected in our immigration reforms.

We have already come a long way. Since April there has been a limit on the number of economic migrants able to come to the UK from outside the European Economic Area.

That limit – 21,700 for the year – has been under-subscribed each and every month since it was introduced. Those who predicted it couldn't work or it would damage British business have been proved wrong.

That is because we listened carefully to those who made sensible suggestions, though not to those who said it could not or should not be done.

In December we consulted on reforms to the student visa route. Again we listened carefully and ensured that the brightest students will be welcome here. But they will have to speak good English, and if they are not studying at a university, they won't be able to work or sponsor dependants.

Private colleges will have to undergo more rigorous checks on the quality of their education provision before they can sponsor international students. And all education providers will have to meet the highest standards of immigration compliance. We are determined to stop abuse.

In June, we launched a consultation aimed at breaking the link between temporary migration and permanent settlement.

It is currently far too easy to move from temporary residence in the UK to settlement here. In 2010, 238,000 people were granted settlement in the UK, the highest number since the 1960s.

Reducing net migration and ensuring community cohesion is not just about reducing the numbers coming to the UK; it is also about being more selective about those who stay permanently. Settling in Britain is a privilege, not a right.

Family consultation

That leaves my main topic this morning; family migration: those migrants coming to join a spouse or partner or family member here in the UK.

In 2010, family migration accounted for approximately 18 per cent of all non-EU migration to the UK.

And in 2010, 48,900 visas were granted to family members of British citizens and those with permanent residence in the UK.

We welcome those who want to make a life here with their family, who want to work hard and contribute to their local community. That is the type of family migration to the UK that we want to see.

But too often in the past the family route has been abused as a means to bypass our immigration laws.

And too often, we have seen family migrants without the means to support themselves, unable and on occasion unwilling to integrate into British life.

These are difficult and sensitive issues that have been ignored for far too long, but issues that we are determined to tackle.

I do not want to see migrants having to scrape by, but rather making a success of living in the UK and actively contributing to British life.

That is why our focus here is on delivering better family migration – better for migrants, for communities, and for the UK as a whole.

The key themes of our approach are tackling abuse, promoting integration and reducing burdens on the taxpayer.

The proposals set out in our consultation are underpinned by robust evidence in a number of research reports.

These shed further, and fascinating, light on the nature of migration to the UK, bringing better understanding of the issues and helping to shape an informed debate.

We are also committed to engaging with as many people as possible during the consultation process. Due to the success of the last YouTube Q&A session, I am today launching another one for people to put their questions to me on any of the proposals in the family consultation.

We recognise that these are sensitive and hotly debated issues. That is why the Government is undertaking the current consultation: to hear the views of the public, test the proposals we have set out, and provide us with further evidence and opinions.

Tackling abuse – sham and forced marriage

What needs to change? First, we need to tackle abuse of the family route.

Family migration must be based on a real and continuing relationship, not a marriage of convenience or a marriage that is forced or is a sham.

Time and again, the UK Border Agency sees cases where the foreign spouse quits the marriage once they are granted settlement, and in some cases goes on to marry their 'genuine' partner and then sponsor that person's migration to the UK.

Recent analysis of the dataset used in the first Migrant Journey report in 2010 identified 719 people who were sponsored to the UK as foreign spouses, and then quickly went on to sponsor another spouse. 19 per cent – virtually a fifth - of these people had sponsored their new spouse within 2 years of being granted settlement.

I propose to prevent those sponsored as a spouse or partner from sponsoring another spouse or partner within 5 years of obtaining settlement.

Last year 6 members of a gang convicted of arranging bogus brides and grooms for illegal migrants were also convicted of committing bigamy after taking part in multiple fake weddings.

If you have been convicted of bigamy or an offence associated with sham marriage, you have demonstrated that you are unfit to be trusted as a sponsor. I am therefore proposing a ban on sponsorship for up to 10 years for those who have committed such offences.

In 2010, 16,800 people switched into the family route in the UK from other routes. Nearly 6,000 of those were students who switched into the marriage route.

Our policies are not designed to prevent people already in the UK from entering into a genuine relationship and remaining here on the basis of that relationship. But, if you enter into a sham marriage and try and use the marriage route as a way of prolonging your stay in the UK, we will refuse your leave and curtail any existing leave you may have.

Abuse of the family route will not be tolerated and we expect couples to prove the genuineness of their relationship.

That is why we plan to define more clearly what constitutes a genuine and continuing marriage to help us identify more sham marriage cases.

For example, if you and your spouse or partner cannot speak a common language – something registration officers regularly tell us – and if you do not know even the most basic facts about each other, we will not believe that your marriage is genuine.

And we think a couple should generally be able to demonstrate that they have been in a relationship for a minimum of 12 months prior to being granted a visa or leave to remain based on marriage or partnership. Where a couple cannot meet this requirement, we propose only to grant 12 months' initial leave and then reassess the genuineness of the relationship before any further leave is granted.

We are keen to learn from practice in other European countries. An example is the attachment requirement in Denmark, which requires a couple's combined attachment to Denmark to be greater than that to any other country. It is argued that this promotes effective integration and provides a further test of the genuineness of a relationship.

To meet the attachment requirement, the sponsor of a marriage visa must have resided legally in Denmark for at least 15 years and the applicant must have visited the country at least twice.

Such an attachment requirement in the UK would have a big impact. Many family migrants have never visited the UK before they apply for a visa to come here as a spouse or partner.

67 per cent of applicants from a sample of just over 500 marriage visa grants in 2009 had never visited the UK before they took the life-changing decision to move here permanently.

And that varied enormously by nationality. 100 per cent of the Afghan applicants and 86 per cent of the Pakistani applicants sampled had never been to the UK.

The consultation invites views on whether something like the Danish approach would be right for the UK. Marrying is a personal decision. But settling in a country is a decision that has important implications, both for the individual and for society. It is therefore right that we consider what should be expected of those wishing to settle in the UK as a spouse or partner.

We are also looking at how we can stop people from entering into a sham marriage in the first place.

In the absence of a lawful impediment (bigamy, under-age, prohibited blood relationship), registration officers are powerless to stop a sham marriage from taking place.

Take for example the case last year of one illegal migrant who attempted to marry a Polish national at Oxford register office. They were arrested on suspicion of perjury – for which the Polish national was cautioned and the illegal migrant later convicted – but they were still able to reschedule the wedding and the registrar was powerless to prevent it from taking place, despite the fact that neither party could understand the other and it was obvious that the wedding was a sham.

We are therefore exploring the case for making sham a lawful impediment to marriage in England and Wales and giving the authorities the power to delay a marriage from taking place while a suspected sham is investigated.

But we cannot tackle this abuse on our own. We are working with the General Register Offices across the UK, local registration services and the Anglican Church.

The UK Border Agency and the General Register Office in England and Wales have produced guidelines for more effective partnership working. The Agency also provides advice and support to the Anglican Church and in April 2011 the Church of England published clear guidance for the clergy on tackling sham marriages.

All of this is paying off. 155 arrests have been made in the past year in sham marriage cases.

But we can still do more. That is why we are looking at the feasibility of combining some of the functions of the registrar and the UK Border Agency in designated officers as a platform for more effective enforcement.

And we are looking to work with local authorities so they can provide a charged service for checking marriage-based leave to remain applications, along similar lines to the checking service for nationality applications currently provided by 135 local authorities.

But sham marriage is not the only abuse of the marriage route.

Forced marriages are taking place here in the UK and overseas as a means of entry to the UK.

In 2010, there were 1,735 instances where the Forced Marriage Unit gave advice or support related to a possible forced marriage. These statistics almost certainly under-estimate the extent of the problem, because many victims are unwilling to speak out.

Forced marriage is not only an abuse of our immigration laws, but is a breach of human rights and a form of violence against victims.

This Government is committed to tackling forced marriage. That is why we are defending the minimum marriage visa age of 21 against legal challenge. We await the Supreme Court's judgment on that.

And if you have been convicted of domestic violence, or have breached or are the respondent of a Forced Marriage Protection Order, we think you should be banned from sponsoring an immigration application.

Such people have demonstrated they are unfit to be trusted as a sponsor.

In 2010, there were 70 instances where the Forced Marriage Unit gave support or advice on forced marriage to people with disabilities. 50 of those had learning disabilities.

We have a duty to protect vulnerable people. That is why I am proposing to ask Social Services in England to carry out an assessment of an individual's capacity to consent to marriage when the sponsor is a person with learning difficulties, or of another particularly vulnerable group. And, in this and other areas of the consultation, I have invited the Devolved Administrations to consider whether similar arrangements would be appropriate in other parts of the UK.

Promoting integration and reducing burdens on the taxpayer

But the Family consultation is about more than tackling abuse of the system.

Secondly, it is also about promoting integration and social cohesion, and ensuring people are not a burden on the taxpayer.

The second Migrant Journey Analysis report, published last month, shows that, on average, more than 50 per cent of those migrants who come here for family reasons end up making the UK their permanent home, but that pattern varies by enormously by nationality. Of the family migrants granted a visa in 2004, 86 per cent of Bangladeshis and 81 per cent of Pakistanis had settled here permanently by 2009, compared with only 10 per cent of Australians and 11 per cent of New Zealanders.

British citizens and those settled here are able to marry or enter into a civil partnership with whoever they choose. But it is reasonable to expect their spouse or partner to integrate into British society.

Integration is not something that happens overnight. It takes time to forge friendships and build bonds.

That is why I am proposing to extend the probationary period before a non-EEA spouse or partner can apply for settlement from 2 years to 5 years.

This will allow additional time to integrate into British life and give us a longer period in which to test the genuineness of the relationship before permanent residence in the UK is granted on the basis of it. It will also make the route less attractive to those whose sole purpose is to gain settlement here.

Time and again, the UK Border Agency receives allegations from innocent men and women who have been duped into marrying a foreign spouse simply so that they can gain permanent residence in the UK.

Extending the probationary period for non-EEA spouses and partners will also reduce the burden on the taxpayer by millions of pounds by postponing access to non-contributory benefits, such as Income Support, income-based Jobseeker's Allowance and council tax benefit, for 3 years.

As we move to a fairer, more consistent approach to all family migrants with a route to settlement, I am proposing to end immediate settlement (indefinite leave to enter) for adult dependants, including those aged 65 or over, and require them to complete a 5-year probationary period before they can apply for settlement.

This is a big change, but it is right that we test all migrants' attachment to the UK. The probationary period will also give time to develop the English language skills needed to live permanently in the UK.

English language skills are important in making a success of living here. The benefits of learning English are widely recognised by academics and professionals alike, as well as by migrants who have improved their language skills and integrated into their new life here.

In contrast to this, we regularly see the consequences of people who are left isolated because they cannot speak English, and who create significant costs for the taxpayer.

In 2009-10, the Department for Work and Pensions, for example, spent £2.6 million on telephone interpreting services and nearly £400,000 on document translation.

That is just one government department. Comparable costs are borne across the public sector.

We want to encourage integration, and that must be helped by a sufficient capacity to communicate in English. This is particularly important where migrant communities continue to favour marriage to a spouse from overseas rather than to a British citizen or a person already settled here.

That is why, last November, we introduced a requirement for those applying for a visa or leave to remain as a spouse or partner to demonstrate a basic standard of English (A1 level).

We propose to extend this requirement to dependants aged 16 and 17 and to adult dependants aged under 65.

And building on the existing English language requirement for settlement, we propose to require adult family migrants aged under 65 applying for settlement to be able to demonstrate that they can understand everyday English (B1 level).

71 per cent of those granted settlement as a spouse or partner in 2009 and 2010 already met B1 level by passing the Life in the UK test. We think it is right that the remaining 29 per cent, and adult dependants aged under 65, should have to demonstrate the same standard.

Most of those who have so far responded to the consultation agree with this approach.

Family migrants must not be a burden on the taxpayer. They must have access to enough money to support themselves and to participate in everyday life – by using local shops and services for example – as a basis for integration.

Analysis of just over 500 case files from 2009 found that around 20 per cent of sponsors were either unemployed or had an income below the national minimum wage, and only 28 per cent of applicants reported being in paid employment at the point of their application.

The UK Border Agency has also uncovered a number of sponsors claiming to have adequate accommodation to support their spouse and dependants, but at the same time claiming to be homeless and accessing social housing from their local authority.

And in one specific case, a sponsor submitted evidence of his self-employed earnings, but a routine check with HMRC showed that he had declared a different income and owed £5,000 in unpaid tax.

Our message is clear – if you cannot support your foreign spouse or partner, you cannot expect the taxpayer to do it for you.

The current maintenance threshold – which is equivalent to the level of Income Support – is not enough to provide adequate maintenance. Income Support is a safety net for those who have fallen on hard times; its level does not provide an adequate basis for integration.

I have therefore asked the independent Migration Advisory Committee to advise on what a new minimum income threshold should be, so that family migrants are supported at a reasonable level that ensures they do not become a burden on the taxpayer and allows sufficient participation in everyday life to facilitate integration.

In applying a minimum income threshold, we will review whether support from third parties, which is not easy for the UK Border Agency to verify, should be allowed only in compelling and compassionate circumstances.

I also want to ensure that sponsors have adequate housing that is not provided at the expense of the taxpayer and is not overcrowded.

37 per cent of sponsors from our sample of just over 500 case files said that they were living with family or friends.

In the future, if you cannot provide a mortgage or tenancy agreement, you may be expected to ask your local authority to verify your housing is adequate and not overcrowded.

The proposals in the Family consultation will ease pressures on housing, on public services and on local communities, and help strengthen social cohesion.

But there are other areas we are consulting on which are important to the integrity of the immigration system.

Family visit visas

We are consulting on family visit visas.

In 2010, the UK Border Agency processed almost 433,000 applications, 73 per cent of which were granted on initial decision by the visa officer. The resulting visits are a means of maintaining family links and of enabling family members living abroad to participate in important family occasions in the UK, such as births, weddings and funerals.

But we have some concerns about the operation of the system.

No other category of temporary entry clearance carries a full right of appeal. In 2009-10, these appeals made up around 40 per cent of all immigration appeals at a cost to the taxpayer of around £40 million.

New evidence is often submitted on appeal which should have been submitted with the original application.

Analysis of a sample of 363 allowed family visit visa appeal determinations received by the UK Border Agency in April 2011 showed that new evidence produced at appeal was the only factor in the Tribunal's decision in 63 per cent of cases, and it was an additional factor in a further 29 per cent of cases.

It is not right that the taxpayer is footing the bill for people to have a second bite at the cherry when those refused a family visit visa can reapply, providing the evidence they omitted the first time, for another £76. A decision will be made in 15 working days, far quicker than the 34 weeks it can take for an appeal to be completed, and by which time the family event for which the visa has often been applied has long since passed.

ECHR Article 8

Let's not forget the context in which we make all these decisions.

The coalition government has a firm commitment to human rights. There has however been considerable public debate as to how these rights are interpreted and applied, and in particular the interpretation of Article 8, the individual's right to family life.

Article 8 allows for consideration of the public interest as well as the individual's right to a family life to be taken into account. That is why we have established a Commission to investigate the creation of a UK Bill of Rights. It is my sincere hope that the Commission will help bring some common sense back to this, admittedly difficult, area.

Conclusion

We shall listen carefully to what people tell us during this consultation, just as we have done previously.

But we are clear about our direction. We want a system that lets everyone know where they stand and what their responsibilities are. If your marriage is not genuine, if you have no interest in this country and its way of life, if you are coming here to live off benefits, don't come in the first place. We want a system that is fair to migrants and the public, that ensures migrants are able to integrate in British life and are not a burden on the taxpayer. That is the kind of family migration we welcome.