



Home Office

FAMILY MIGRATION:

RESPONSE TO CONSULTATION

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1. Introduction

On 13 July 2011 the Government published the consultation document 'Family Migration,' containing proposals to tackle abuse of the family route, promote integration and reduce taxpayer burden. The consultation closed on 6 October 2011.

The consultation document covered the proposed next phase in the Government's reform of the immigration system. It follows the reforms made or announced to work, study and work to settlement routes.

Annex A lists the proposals in the consultation document and what the Government is now doing in respect of each.

2. Overview of responses

Individuals and organisations wishing to respond to the consultation had the option of completing an online survey or submitting the questionnaire by e-mail or post. In addition, or alternatively, some respondents submitted a narrative response as an offline pro forma.

This report provides an overview of all the responses. It draws together the following material:

- **Responses to the quantitative questions** through the online survey or the offline pro formas submitted to the family migration e-mail in-box.
- **Write-in responses to the open-ended questions** in the online survey or offline questionnaire. These responses are analysed thematically, with findings presented at appropriate points in this report.
- **Further qualitative responses**, which extended beyond the write-in boxes in the questionnaire. These were mainly offline narrative responses from organisations. These responses are analysed thematically, with selected quotations from these responses (described as 'narrative' responses from hereon) included to give a flavour of some of the key issues raised, although these should be read in the context of the much larger number of quantitative responses. This report seeks broadly to reflect the balance of opinion across the narrative comments received and, to an extent, to reflect the views of different sectors (e.g. the legal sector, women's organisations and the faith community).

A list of the named organisations which responded (either to the survey/questionnaire or with a narrative response) is at **Annex B**. Some of the organisational respondents to the online survey either did not give any details of their organisation, or stated the type of organisation but did not give its name.

The quantitative findings are based on 4,950 responses, of which 99% were received through the online survey and the remaining 1% by email or post. An excel summary of these quantitative responses is at **Annex C** (separate from this document). This number does not include the 96 entirely narrative responses received, such as letters, as these did not address the questions in a quantifiable way. There were 5,046 responses to the consultation in total.

Many respondents did not answer every question and so the number responding varies by question. For the online survey, the number of responses was generally lower for the later questions in the survey (see Annex C for numbers responding to each question). In addition, most questions had a 'no opinion' option and this is only reported where the numbers were relatively high (see Annex C for details of 'no opinion' responses to all questions).

Throughout this report, comparisons have been made between those who said they were responding in an official capacity and those who said they were responding as a member of the public. The reported differences between these sub-groups are statistically significant at the 5% level.

3. Profile of respondents

Respondents were asked whether they were responding in an official or personal capacity. Of those who answered this question, the majority (93%) responded as a member of the public, with 7% responding on behalf of an organisation. Approximately a third (32%) did not tell us which group they fell into, and a comparable proportion did not respond to the other background questions (see Annex C for details).

Of the members of the public, 88% reported their citizenship status. Of those giving their citizenship status, 82% were British citizens and 19% were foreign nationals. Responses to other background questions (including those on age, ethnicity, sex and disability) are detailed in Annex B.

Of the organisations responding, 27% were from the public sector, 33% private sector, 35% voluntary sector and 6% other (for example, membership organisations).

All the percentages above are based on the quantitative responses, as there was no quantitative analysis of the narrative responses.

The following sections provide an overview of the responses in the following policy areas:

- Marriage and partnership
- Other dependants
- Settlement (for all groups)
- Tackling sham marriage
- Tackling forced marriage
- European Convention on Human Rights Article 8 (right to respect for private and family life)
- Family visit visas

4. Marriage and partnership

4.1 Definition of marriage or partnership

We asked whether we should we seek to define more clearly what constitutes a genuine and continuing relationship, marriage or partnership for the purposes of the Immigration Rules.

62% of all respondents agreed that we should seek to define genuineness more clearly. This comprised 68% of individuals and 36% of organisations. 56% of organisations disagreed.

Those who supported a clearer definition of genuineness were asked for suggestions. 1,166 respondents left a comment. The most frequently mentioned suggestions were:

- A minimum time requirement for a relationship (282)
- Providing evidence of relationship, such as marriage certificates, photos and proof of contact (159)
- Checking that the couple can correctly recall personal details of each other at interview, e.g. how they first met and names of their partner's relatives (85).

Many of the narrative responses saw the current requirement that the relationship is subsisting as sufficient, with 'genuineness' already covered in guidance and considered by Entry Clearance Officers. There was, however, support for a clearer definition from a voluntary and community organisation working to tackle forced marriage:

[The organisation] fully supports the government's intention to define more clearly what constitutes a genuine and continuing relationship, marriage or partnership, for the purposes of the immigrations rule and all of the points alluded to above. On our national helpline we frequently receive calls from victims of forced marriage who are forced to demonstrate that a marriage is genuine and continuing. We therefore feel that defining a genuine and continuing marriage more clearly, in addition to training to identify where such demonstrations may be falsified, is crucial to preventing forced marriage through abuse of the immigration rules.
(Women's organisation, response to the online survey)

There was a widespread view, in the narrative responses, that it was not possible to have a 'tick box' approach to genuineness, given the different cultural and religious understandings of what constitutes a relationship. This was expressed by faith groups, amongst other respondents:

Any definition would need to be sensitive to religious and cultural practice particularly the traditional assumption that the marriage ceremony marks the start of a commitment to a lifelong relationship and not the affirmation of a pre-existing settled partnership. Consummation or previous experience of 'living together' is not assumed in most religious traditions.
(Faith community)

Whilst marriages within the community may result from introductions ... these are genuine, consensual matches and the incidence of divorce is extremely low. Important factors for the couple in agreeing to the match will include, for example, the level of religious observance and therefore the likelihood of the couple being compatible, rather than necessarily a sustained period of familiarisation. It would be vital, therefore, to have regard for these cultural and religious factors, and not to make a determination about the genuine nature of the marriage based on the couples' depth of personal knowledge about each other.
(Faith community)

4.2 Attachment to the UK

We asked whether an 'attachment to the UK' requirement, along the lines of the attachment requirement operated in Denmark, would support better integration, help safeguard against sham marriage and help safeguard against forced marriage.

57% of all respondents agreed that such a requirement would support better integration, with 35% of organisations and 60% of individuals agreeing. 57% of organisations disagreed.

Again, on an attachment to the UK requirement, 61% of all respondents agreed it would help safeguard against sham marriages. 63% of individuals and 40% of organisations agreed. 55% of organisations disagreed.

58% agreed an attachment to the UK requirement would help safeguard against forced marriage. Again, organisations were less likely to agree: 36% compared with 61% of individuals. 57% of organisations disagreed.

The online survey did not invite write-in comments on this question, but some of the offline responses did provide additional views on the attachment question.

A number of these responses expressed a view that some people would have problems demonstrating attachment, e.g. if physical or financial constraints prevented travel to the UK, if the overseas partner had been refused a visit visa, or for arranged marriages. Some raised human rights concerns on discrimination grounds.

A considerable number of respondents also commented that attachment could be hard to demonstrate in an era when transnational relationships are easily maintained and many people have attachments to multiple places. Some gave the example of a UK citizen who had married and lived overseas for many years, but now wanted to return with their partner.

These two objections to the attachment criteria are encapsulated in this response:

The stipulation that the applicant must have visited the country at least twice discriminates against those from less affluent communities, or from which it is harder to obtain a visitor visa. ... A strong link with the country of origin does not preclude someone from becoming a fully contributing member of British society, and is not a bar to integration. The history of people of British origin across the world testifies to this. The number or pattern of visits to the country of origin, in this increasingly global world, is an irrelevance in relation to whether or not someone is integrated into British society.
(Women's organisation)

4.3 Minimum income threshold

We asked whether we should introduce a minimum income threshold for sponsoring a spouse or partner to come to or remain in the UK.

53% of all respondents agreed with the introduction of a minimum income, with 44% disagreeing. 57% of individuals and 31% of organisations agreed. 65% of organisations and 41% of individuals disagreed.

Many of the narrative responses from organisations expressed a view that there was no case for a minimum income threshold above the current income support level. An increased threshold was seen as discriminating against those on lower incomes, with some specifically referring to the case of refugees. Many also commented that the income support level was deemed to be an adequate safety net for UK citizens and that the 'no recourse to public funds' requirement generally prevented migrants from accessing benefits. These views are summed up in these responses:

[Organisation] opposes plans to increase income thresholds over and above income support base rates. It is misleading to suggest that this will reduce the burden on British taxpayers, as new arrivals are already required to support themselves to a standard deemed acceptable in this country. Proposals to increase income thresholds will simply disadvantage families of modest means, potentially leading to the ongoing separation of close family members.
(Human Rights organisation)

Introducing a minimum income threshold that exceeds the current level would also be at odds with principles of non discrimination and promotion of equality. It is well established that women, certain ethnic groups, and disabled people on average all have lower earnings, whilst also experiencing higher levels of discrimination in the labour market. The effect of these proposals would therefore be to impair the enjoyment of family reunion rights for these groups. They would also have significant implications for single-parents, and those who though no fault of their own fall into the lower income. Income requirements have been expressly criticized by the EU Commissioner on Human Rights in the context of family reunion laws.
(Voluntary sector organisation)

[Organisation] is shocked by the implication in the consultation paper ... that income support/job seeker's allowance, which the government considers adequate for people and families in the UK, is not adequate for someone coming to the UK. If it is indeed not adequate for integration, then the solution should be to raise the income support/job seeker's allowance rates for all, so that those forced to rely on these benefits may also have a 'reasonable level' of support. Requiring migrants to show evidence of more than the amount which the state believes is adequate for British families, without simultaneously raising the amounts paid to British families, would be oppressive and unjust.
(Legal sector organisation)

In addition, some respondents from organisations from Scotland, Northern Ireland and the English regions felt that the minimum income threshold should reflect different living costs in different parts of the UK.

An opposing view on minimum thresholds was seen in some of the narrative responses, for example that:

A minimum income threshold should be set at what the state considers to be the minimum satisfactory income threshold for families of different sizes without the state needing to top up the income. The gross income required of the sponsor should be able to provide post tax income at that level. This income needs to be significantly above minimum wage as this is topped up with very substantial subsidies from the tax payer such as the Working Tax Credit and Housing Benefit. We suggest the salary threshold should be in the region of the present average earnings of £26,000 a year. Even at this level additional support from the taxpayer would be required if the family has children.
(Think tank)

4.4 Housing requirements

We asked if there should be scope to require those sponsoring family migrants to provide a local authority certificate confirming their housing will not be overcrowded, where they cannot otherwise provide documentation to evidence this.

58% of all respondents agreed that there should be scope to require those sponsoring family migrants to provide a local authority certificate confirming their housing will not be overcrowded. 61% of individuals agreed and 37% of organisations agreed. 56% of organisations disagreed.

Amongst the narrative responses, not just from the local government sector, many felt that housing certificates will create burdens and have cost implications for local authorities and individuals. As in this response, there was a view that local authorities needed to be consulted on these changes:

If there is to be a greater use of housing certificates, local authorities must be consulted on this and confirm that they will have the capacity to cater for the demand for these certificates as well as ensuring that they have adequately trained staff to provide this service.
(Legal sector organisation)

Some responses also mentioned that there was already published guidance on overcrowding and felt that current rules were adequate.

5. Dependants

5.1 Minimum income threshold

We asked whether there should be a minimum income threshold for sponsoring other family members coming to the UK.

55% of all respondents agreed with a minimum income threshold for sponsoring other family members. 58% of individuals agreed. 33% of organisations agreed, with 62% disagreeing.

Many of the narrative responses opposed the proposal on minimum income, often referring to their earlier answers in the section on partners, or supported a threshold in line with income support levels, which was seen as not discriminating against poorer families and communities. One typical response was that:

[Support for the proposal] would depend on whether the purpose of such a threshold would simply be to assist applicants by providing predictable guidelines or, on the contrary, setting a new higher bar which would reduce the ability of families to exercise the fundamental rights of family life with minor children or elderly or other, dependent relatives. The current immigration rules and guidance should be maintained or revised to assist persons present and settled in the United Kingdom to facilitate the protection and promotion of their right to family life by not putting any further stringent barriers to entry for family members of such settled persons.
(Legal sector organisation)

5.2 Age threshold for elderly dependants

We asked whether we should keep the age threshold for elderly dependants in line with the state pension age.

60% of all respondents agreed with keeping the age threshold aligned with the state pension age. 62% of individuals agreed. 41% of organisations agreed with the proposal, with 51% disagreeing.

In the narrative responses, opinion was divided on the proposal to keep the age threshold for elderly dependants in line with the state pension age. Women's groups and legal groups were generally opposed, whilst other voluntary and community sector groups who responded were generally in favour.

Some of those who opposed the proposal made the point that the increased longevity referred to in the consultation is reflective of the UK's population and not necessarily the population of an elderly dependant's country of origin:

People become dependent on their children at the age of 60 in most of the South Asian/African countries due to poverty, life expectancy, hard labour etc, so it should not increase to 66. It is not a comparison of like with like.
(Women's organisation)

It is correct that people are living longer around the world; however in many countries from which elderly dependants will seek to join their families in the UK during the next 10 years life expectancy is less than or not greatly more than 65 years. We do not agree that the age threshold should be increased in line with UK pension age.
(Legal sector)

Those who agreed with the proposal often did so on the basis that the threshold would be clear and easy to understand:

Any other threshold would appear unfair to the general public, and this is an easily understandable, transparent measure.

(Women's organisation)

This is a rational and clear threshold which can be understood by both applicants and the general public.

(Voluntary sector organisations)

5.3 Supporting older relatives overseas

We asked whether we should look at whether there are ways of parents or grandparents aged 65 or over being supported by their relative in the UK short of them settling here.

42% of all respondents agreed that we should look at other ways of relatives' supporting their parents or grandparents overseas. 42% disagreed. 44% of individuals agreed, with 41% disagreeing. 24% of organisations agreed with the proposal, with 62% disagreeing.

Amongst those survey respondents who supported looking at other ways of supporting older relatives overseas, the most frequently mentioned write-in suggestions reflected the following themes:

- Elderly dependants should be allowed to settle as long as they do not access the welfare state or medical insurance to be compulsory or the sponsor should be responsible for all costs of keeping the dependant (230)
- The UK relative could send money to the dependant overseas (213).
(1,532 respondents said yes and 685 left a comment)

Supporting relatives overseas, through other means than coming to the UK, was viewed, in many of the narrative responses, as impractical and inhumane. At least one organisational response also saw this as an integration issue:

This proposal [on supporting elderly relatives overseas] fails to recognise the importance of family ties. ... Often financial provision is not sufficient to ensure the care of a parent or grandparent as physical and emotional support is often required. The question has to be asked why overseas workers are not able to support parents or grandparents in the same way that their colleagues are able to. Once again this seems to be separating out overseas workers and hindering integration rather than aiding it.

(Professional body)

Many also commented that the existing rules were sufficient, as seen with this response from the legal sector:

Currently, [parents or grandparents aged 65 or over] must meet a high bar in order to prove that they are (1) 'financially dependant' upon the relative who is present and settled in the UK, (2) have no close relatives to turn to in their home country, and (3) will be well maintained and accommodated in the UK without recourse to public funds. These requirements are sufficient.

(Legal sector organisation)

5.4 Leave for dependants nearing their 18th birthday

We asked whether there should be any change to the length of leave granted to dependants nearing their 18th birthday.

53% of all respondents disagreed with changes to the length of leave for this group. 25% agreed. 52% of individuals and 72% of organisations disagreed. There were a relatively high number of 'no opinion' responses to this question (22% of all respondents).

Write-in suggestions were made by those who agreed that there should be a change of leave for this group. The main suggestions made were to:

- Grant limited leave until age 18, with the young person then applying in their own right at 18 (116)
- Grant dependants nearing their 18th birthday a temporary visa with an avenue (for example through the points based system) to indefinite leave to remain (ILR) or further leave, or simply grant ILR at the end of the five years if they can demonstrate good conduct or no criminality (52)

- Have a lower age limit, for example 16 or 17 (40).
(915 respondents said yes and, of these, 383 left a comment)

Many of the narrative responses saw changing leave for those approaching 18 as an arbitrary or unfair change to a logical rule. Many also felt this would have negative implications for family life, potentially splitting up families.

5.5 Language requirements

We asked whether dependants aged 16 or 17 and adult dependants aged under 65 should be required to speak and understand basic English before being granted entry to or leave to remain the UK.

65% of all respondents agreed that dependants in these age groups should be required to speak and understand basic English before being granted entry or leave to remain. 68% of individuals and 39% of organisations agreed (with 56% of organisations disagreeing).

Some of the narrative responses saw this proposal as having negative implications for family life and / or integration, as seen in this response from an organisation from the lifelong learning sector:

If children are separated from their parents until they can achieve A1 English language, this risks being counter-productive in terms of language learning and family stability. For the purposes of social integration, it is likely that the children would learn English more effectively in the UK and would be better settled in school and community if re-united with their parents as soon as possible.
(Education sector organisation)

5.6 Switching into the family route as a dependant

We asked whether we should we prevent family visitors switching into the family route as a dependent relative while in the UK.

54% of all respondents agreed that we should prevent switching in these circumstances. 39% disagreed. 56% of individuals and 34% of organisations agreed (with 38% of individuals and 60% of organisations disagreeing).

Of the narrative responses, many felt that there were genuine reasons for individuals switching from a family visit visa into the dependant route, so there should not be a blanket ban on this. It was also widely seen as increasing costs and uncertainty for individuals.

6. Settlement for spouses, partners and dependants

6.1 Extended probationary periods

Compared with many of the other proposals, on both partners and dependants, discussed above, there were generally lower levels of support for the set of proposals around extending probationary periods prior to settlement.

We asked whether we should we extend the probationary period before spouses and partners can apply for settlement (permanent residence) in the UK from the current 2 years to 5 years.

46% of all respondents agreed with extending the probationary period before spouses and partners can apply for settlement from 2 years to 5 years. 52% disagreed. Individual responses were balanced with 49% agreeing and 49% disagreeing. This compared with 28% of organisations who agreed and 69% who disagreed with the proposal.

The biggest concern raised, in the narrative responses, about an increased probationary period was that it might deter people from leaving forced marriages or other abusive relationships. This concern was particularly raised by women's organisations, for example:

An insecure immigration status ... heightens and intensifies a woman's experience of abuse as many women with an insecure immigration status are deterred or prevented from accessing support services. The Government's *Call and Action Plan* recognise this by committing to enabling applicants under the domestic

violence rule to receive welfare benefits while they are preparing their claim and it is decided by the UKBA. No reference to the impact of the proposed change to the probationary period on this commitment is made in the consultation. Notwithstanding this commitment, increasing the probationary period will increase the period of time an applicant is dependent on her sponsor and is therefore at risk of, or experiencing, abuse.
(Women's organisation)

There were some further narrative comments that, if the probationary period was increased, domestic violence protection should also be extended.

We asked if spouses and partners who have been married or in a relationship for at least 4 years before entering the UK should be required to complete a 5-year probationary period before they can apply for settlement.

53% of all respondents disagreed that spouses and partners who have been married or in a relationship for at least 4 years should complete a 5-year probationary period before they can apply for settlement. 43% agreed. Of individual respondents, 51% disagreed and 47% agreed. 25% of organisational respondents agreed, with 72% disagreeing.

The narrative responses expressed opposition, from a wide range of organisations, to the proposed probationary period for those in a relationship overseas for at least 4 years. It was seen as disproportionate because a couple's commitment to the relationship had already been demonstrated by the time spent together. Some narrative responses also saw this proposal as anti-marriage, as seen in this comment from the faith community:

The current visa requirements state the required nature of relationships and it is to be expected that competent Visa Officers would have already formed an opinion on the relationship subject to which the visa application would be determined. The proposal should reward long and ongoing marriage relationships and not devalue and undermine the marriage.
(Faith community)

A lack of 'security,' because of the increased probationary period (and also having only time on a route to settlement counting towards the probationary period) was seen, in the narrative responses, as having a negative impact on families, relationships and individuals, especially women and children. The longer probationary period was also widely seen as hindering social integration, participation and cohesion. These views were particularly expressed by women's and legal organisations, for example:

[T]here is no evidence presented to show that the 2 year probationary period does not work and that the 5 year period will work in preventing 'sham' marriages. The proposal will create uncertainty and anxiety amongst genuine couples and have the effect of causing marital breakdown, which in the long term, will also increase dependency on the state to provide accommodation and other welfare support, especially where children are involved. The proposal will therefore undermine the stated aim of 'integration' policy since it will increase trauma, uncertainty and anxiety amongst spouses and their foreign national partners, preventing them from participating in their local communities and from making contributions through paid and unpaid work.
(Women's organisation)

Family breakdown has a huge impact on children, and these proposals aggravate the risk that if a relationship breaks down before the five year mark one of the parents will be removed from the UK (unless they qualify for settlement in some other way). Our view is that there could be strong Article 8 challenges to such a provision, as many applicants will be able to demonstrate that private family life had been established in the two to five year period and that they should, therefore, have leave to remain.
(Legal sector organisation)

We asked if adult dependants and dependants aged 65 or over should complete a 5-year probationary period before they can apply for settlement (permanent residence) in the UK.

47% of all respondents agreed that these dependants should complete a 5-year probationary period before settlement. 49% disagreed. 50% of individuals agreed, with 47% disagreeing. 27% of organisations agreed with the proposal, with 68% disagreeing.

A probationary period for older people was seen, in the narrative responses, as harsh and disproportionate.

We asked if we should increase the probationary period before settlement (permanent residence) in the UK for Points Based System dependants from 2 years to 5 years.

50% of all respondents agreed with an increase of the probationary period for Points Based System dependants from 2 years to 5 years. 44% disagreed. 53% of individuals and 29% of organisations agreed (with 43% of individuals and 65% of organisations disagreeing).

In the narrative responses, some respondents felt that extended probationary periods for dependants would have an impact on employers' ability to attract the brightest and the best. This was seen in the following responses from a professional body and two umbrella organisations in the creative industries sector:

[The organisation] recognises that UK employers should be able to access the brightest and the best overseas doctors where there is a workforce need. Overly restrictive policies on dependants will ... discourage overseas students and doctors from coming to the UK as they will opt instead to migrate to those countries where they are able to live with their dependants. [The organisation] is concerned about the impact the consultation proposals will have on the ability of overseas doctors to integrate into UK life.
(Professional Body)

Although the number of settled dancers with dependants here is extremely small, we are very concerned that the placing of more stringent requirements on dependants seeking settlement would deter top flight dancers from joining the UK's leading dance companies. This would exacerbate the difficulty those companies already face in recruiting the exceptionally talented, highly skilled dancers they need. This would threaten the companies' reputations for excellence and their international stature, and lead to a range of adverse economic and other consequences.
(Trade Association and Industry Body)

A different perspective came from a major employer organisation:

We recognise that the government wants to ensure that PBS dependants remaining in the UK for the longer term are doing so on the basis of a genuine relationship and aligning the probationary period before settlement for dependants with that of the main migrant is reasonable.
(Employers' Organisation)

We asked if only time spent in the UK on a route to settlement should count towards the 5-year probationary period for Points Based System dependants.

52% of all respondents agreed only time UK on a route to settlement should count towards Points Based System dependants' probationary period. 40% disagreed. 54% of individuals and 31% of organisations agreed (with 38% of individuals and 59% of organisations disagreeing).

6.2 Language requirements

We asked whether spouses and partners applying for settlement (permanent residence) in the UK should be required to understand everyday English.

There was a high level of support for such a requirement, with 82% of all respondents agreeing with the proposal and 16% disagreeing. The level of agreement was 85% for individual respondents and 56% for organisations.

Those who supported the everyday English requirement, were asked which of the following English language skills we should test:

- Speaking
- Listening
- Reading
- Writing

Of those respondents who agreed with the English requirement, 96% thought that speaking was a language skill that should be tested. 89% agreed listening, 76% agreed reading and 62% agreed writing should be tested. The levels of agreement were higher for individuals and lower for organisations. There was a significant difference between the individual and organisational responses for reading (78% and 65% agreed respectively) and writing (64% and 51% agreed respectively).

In the narrative responses, there was general agreement that a knowledge of English is desirable, both to enhance community cohesion and for the benefit of the individual. Whilst some felt all 4 skills should be tested, speaking and listening were seen as the most important skills.

The proposed English requirements were opposed in some of the narrative responses, especially by respondents from the legal sector and women's groups. This was typically on the grounds of discriminating against those from countries where English was not spoken or there was limited support available in learning or testing English. However, the proposals were supported in some other narrative responses, often on the grounds that a knowledge of English supports integration.

A number of respondents expressed concern at the availability and affordability of English language courses, saying that existing provision can be difficult to access and often oversubscribed owing to cuts in ESOL provision. Some felt it would be unreasonable to introduce a requirement without ensuring that migrants have the means to achieve it through access to affordable courses. This was seen in the following responses:

[The organisation] agrees that it is desirable for migrants to be able to speak English to facilitate their integration into British society but there are no proposals made in the consultation paper as to how the UK Border Agency will ensure that migrants have easy, affordable access to courses which will be accepted by the UK Border Agency. It is not acceptable to introduce a requirement but not indicate what steps will be taken to ensure that all migrants will have access to means to meet the requirement.
(Legal sector organisation)

In our view a more effective way to encourage language speaking for migrants spouses more generally would be to charge home fee rates or provide free language classes (as opposed to overseas fee rates) during the first year of the migrant's probationary status with a view to encouraging language learning at an earlier stage. We also believe that it would be useful to invest in greater provision of English language classes - acquisition of linguistic skills is essentially an educational matter rather than an immigration one. Our experience is that many migrants wish to improve their linguistic skills but are unable to access oversubscribed classes.
(Voluntary sector organisation)

Other respondents said that the proposed English requirement would encourage better integration into society and that it would be reasonable to expect spouses and partners to learn English during a five year probationary period. For example:

Speaking and listening should be tested as a minimum. If rules are brought in to require spouses and partners to complete a 5 year probationary period before they are able to apply for settlement, it is reasonable to expect the individual to have developed these skills during the 5 year probationary period before applying for settlement.
(Legal sector organisation)

We asked if adult dependants aged under 65 should be required to understand everyday English before being granted settlement (permanent residence) in the UK.

67% of all respondents agreed that dependants in this age group should be required to understand everyday English before settlement. 69% of individuals and 42% of organisations agreed (with 54% of organisations disagreeing).

The majority of narrative responses to the proposal were opposed to an English language requirement for dependants aged under 65. There was some support for the proposal on integration grounds, with some respondents saying provision should be made for those unable to learn English due to age or disability:

This would promote integration into society and ensure consistency.
(Legal sector organisation)

This should be a requirement unless there are factors preventing this. Leeway should perhaps be given for those at the mature end of the spectrum who, while healthy, and being able to prove they have tried, have found learning a foreign language too difficult at their stage of life. It should not be required for those over 65, or the agreed pension age.
(Women's organisation)

We support this proposal in principle as we recognise that a requirement to speak and understand English will aid integration. However, individuals should not be disadvantaged by barriers which may restrict their ability to learn. For example, if an individual has a visual or hearing impairment or learning disabilities.
(Devolved administration)

Many of those who opposed the proposal mentioned lack of availability of English language classes and tests. Some felt it would disadvantage those who had not had the opportunity for a formal education:

It seems particularly harsh to impose pre-entry English language tests on young adult children and elderly dependants. Apart from having a discriminatory impact on those who come from rural and poorer backgrounds, it will be unduly harsh and inhumane to require elderly dependants who may have never had any formal education and who may be ill, disabled and have physical and mental health problems, to learn a new language before they can be granted settlement.
(Women's organisation)

This will be discriminatory for people who come from countries where it's difficult or impossible to learn English and especially for those who might not even have the chance to be educated. This would also affect women disproportionately since almost two thirds of the world's illiterate are women.
(Women's organisation)

We also asked if we should require Points Based System dependants to understand everyday English before being granted settlement (permanent residence) in the UK.

75% of all respondents agreed with an English language requirement for Points Based System dependants before settlement. 78% of individuals and 49% of organisations agreed (with 46% of organisations disagreeing).

Some narrative responses to the proposal opposed it on the grounds that it could make it more difficult for people to reach settlement; one felt it could also affect the principal Points Based System migrant's ability to remain and work in the UK:

All PBS dependants applying for settlement in the UK are already required to meet an English language requirement when applying for settlement. This change would make it more difficult for some to reach settlement. We believe the government should instead support people of different skill levels to learn English in the UK in order to move them to settlement and support integration.
(Voluntary sector organisation)

Subjecting PBS dependants to a mandatory English language test will cause the principal migrant to become beholden to a third party test unrelated to the employment or original purpose and intent of the immigration permission. It is undesirable and illogical that despite the dependant having fulfilled all other requirements, the proposed additional test could force the main migrant to leave their employment in the UK or face splitting the family. This could be highly detrimental to employers who could lose critical employees. This proposal would add to insecurity and instability felt by migrants and their families. An enormous amount of pressure will be placed on adult dependant to pass the English test in order for a family to be able to settle in the UK and for the main applicant to stay at his or her job.
(Legal sector organisation)

7. Tackling sham marriage

7.1 Combining roles

We asked if we should (in certain circumstances) combine some of the roles of registration officers in England and Wales and the UK Border Agency as a way of combating sham marriage.

74% of all respondents agreed that we should combine these roles in some circumstances. This level of agreement was slightly higher for individuals (77%) and much lower for organisations (43%, with 50% disagreeing).

With this and the following questions on sham marriage, the online survey did not invite comments, but comments were made via the narrative responses.

Some of these narrative responses opposed such a combining of roles on the basis that this blurred registrar and immigration roles, for example:

It would be highly inappropriate to create a post, as proposed, which combines the role of registrar and immigration official. ... Registrars are already required to provide intelligence to the UKBA in cases of suspicion. It is very difficult to see how training in the requirements of the immigration rules ... would add anything to the ability of registrars to detect sham marriages. If the Government proceeds with proposals which approach all marriages involving a foreign (non-EU) spouse through a prism of mistrust, it risks alienating a significant sector of the UK population and falling foul of discrimination and human rights laws.
(Human Rights organisation)

For Church of England clergy, combining roles in this way was also seen as potentially conflicting with pastoral responsibilities.

Some narrative responses, notably from registrars, supported this proposal. However, these responses often still expressed some concerns about clarity of role and about the additional burden on local authorities, for example:

We are very interested in this proposition [combining roles] and can see circumstances in which this would be advantageous and potentially utilise the resources of the local authority and the UKBA more effectively. There is no national consensus on this proposal and it is fair to say that those local authorities that have a greater sham marriage problem are likely to be keener than those that don't. However, this blurring of the boundaries between the roles of registration officer and UKBA officers needs to be thought out carefully to ensure that the maximum benefit is realised. It is also necessary to ensure that no additional burdens are placed upon those local authorities that participate and that the full costs of any additional work can be recovered.
(Local Authority)

Some respondents also opposed this proposal on a more general basis, saying that it fails to recognise that a 'sham' marriage does not automatically confer immigration benefits. The same point was made around later proposals on sham marriage also (i.e. sham being a lawful impediment to marriage and delaying a marriage from taking place where sham is suspected).

7.2 Documentation

We asked if more documentation should be required of foreign nationals wishing to marry in England and Wales to establish their entitlement to do so.

61% of all respondents agreed that more documentation should be required from foreign nationals wishing to marry. 65% of individuals and 40% of organisations agreed (with 54% of organisations disagreeing).

Amongst the narrative responses, requiring more documentation was seen as discriminatory by some respondents. This was on the basis that no such requirements would be made of UK citizens and because they posed a financial barrier for some foreign nationals.

There were also some comments that some foreign nationals, such as refugees, would not be able to obtain such evidence. Some respondents opposed the proposal on this basis, whereas others supported it, but said allowance needed to be made for such situations. Registrars were broadly supportive of the proposal, making several suggestions on the types of documentation that might be requested.

7.3 Pre-marriage interviews

We asked if some couples including a non-EEA national marrying in England and Wales should be required to attend an interview with the UK Border Agency during the time between giving notice of their intention to marry and being granted authority to do so.

62% of all respondents agreed that some couples should be required to attend such an interview. 66% of individuals and 43% of organisations agreed (with 53% of organisations disagreeing).

Amongst the narrative responses, there was also some support for this proposal, for example:

We agree with the desirability of interviews, if visas are granted simply on the basis of paper applications then we do not believe that the genuineness of such marriages can in most cases be effectively assessed.
(Think tank)

Many registrars supported the proposal, but some expressed some concerns about the implications for local authorities, for example:

[Interviews] would certainly assist in helping to identify potential sham marriages. ... [S]uch interviews could be carried out by local authority staff acting under the direction of the UKBA. However, it would be necessary to compensate local authorities for providing such a service in order not to create additional burdens on local government. It would also have to be made clear that couples were being targeted under the Immigration Rules rather than by individual local authorities to avoid allegations of discrimination.
(Local Authority)

As suggested in the quotation above, some respondents saw the proposal on requiring interviews as discriminating against certain communities and nationalities.

7.4 Sham as an impediment to marriage

We asked if 'sham' should be a lawful impediment to marriage in England and Wales.

71% of all respondents agreed that 'sham' should be a lawful impediment. 75% of individuals and 48% of organisations agreed (with 43% of organisations disagreeing).

The narrative responses, including those from registrars, were divided on this proposal. Some supported it, but with the caveat that 'sham' would be difficult to define and that there needed to be clarity on roles and responsibilities. Other narrative responses (including from some registrars) said that the difficulty of defining 'sham' meant that they could not support the proposal.

75% of all respondents agreed that the authorities should have the power to delay a marriage where 'sham' is suspected. 78% of individuals agreed. This was one of relatively few proposals where there was majority agreement from organisations, with 51% agreeing with the proposal (42% disagreed).

There was support for this proposal, but some comments that there would need to be agreement on who is responsible for the delay, with legal challenge and reputational damage (i.e. for the local authority if the marriage is, in fact, not a sham) being considered. Some added that investigations should be carried out by the UK Border Agency. This kind of view was typified in this response:

Yes [to the proposal] but agreement needs to be reached on who is responsible for the delay paying particular attention to the following points raised:

- Clear guidelines required as well as training
 - Minimising the potential for local authorities to be challenged and sued by ensuring that UKBA is the lead organisation
 - Serious concerns if marriage had been stopped and then found not to be a sham. This could pose a risk to the local authority in terms of reputation and financial compensation. Challenges would have to be directed to the UKBA.
 - Possibility to delay marriage but the investigation should be completed by UKBA.
- (Local Authority Body)

Some of the narrative responses expressed opposition to this proposal on the grounds that it interfered with couples being allowed to marry. Some referred to the principle in case law that having leave to remain should not be a factor in being allowed to marry. This response reflected this kind of view:

Whilst the UKBA is fully entitled to grant or withhold immigration status based on marriage according to criteria which are lawful in domestic and international law, it is difficult to justify an interference with the right to marry itself. The Certificate of Approval scheme was an inappropriate tool to address the very real problem of sham marriages and was recognised as such by the courts.
(Women's organisation)

7.5 Greater flexibility for local authorities

We asked if local authorities in England and Wales, that have met high standards in countering sham marriage, should be given greater flexibility and revenue raising powers in respect of civil marriage.

56% of all respondents agreed that these local authorities should be given greater flexibility and revenue raising powers. 58% of individuals and 35% of organisations agreed (with 54% of organisations disagreeing).

Looking at the narrative responses, there was considerable opposition to this proposed extra flexibility, as it was seen as potentially creating incentives for increased referrals of suspected sham marriages. There were also a number of comments that the proposal cannot be agreed without further information and clarification, for example around the meaning of 'revenue raising powers'. Some respondents also raised concern about the potential additional burden for local authorities, for example:

Rather than 'incentives' or 'rewards' for reporting sham marriages, the issue for local authorities is that any changes to the role of registration staff in this area would represent an additional burden and would need measures to allow cost recovery..
(Registrars)

7.6 Sponsorship bans

We asked if there should be restrictions on those sponsored here as a spouse or partner sponsoring another spouse or partner within 5 years of being granted settlement in the UK.

62% of all respondents agreed there should be sponsorship restrictions within 5 years of being granted settlement. 65% of individuals and 34% of organisations agreed (with 61% of organisations disagreeing).

The narrative responses showed a range of viewpoints. Some respondents felt time between settlement and sponsoring a new migrant partner should be a factor in decisions, but not a blanket ban. Others opposed this proposal, with many referring to the diversity of reasons for marriage breakdown and the right to form relationships. Others supported the proposal.

We asked if someone is found to be a serial sponsor abusing the process, or is convicted of bigamy or an offence associated with sham marriage, should they be banned from acting as any form of immigration sponsor for up to 10 years.

This was one of the most strongly supported proposals, with 83% of all respondents agreeing. This rose to 86% for individual respondents. This was another of the small number of proposals where there was majority agreement from organisations, with 59% agreeing with the proposal (34% disagreed).

Of the narrative responses, there was again a view that past abuse or convictions should be a factor in decision-making, but that decisions need to be based on individual circumstances, rather than having a blanket ban. There was also some support for such a ban. Others opposed the proposed 10 year ban, with various reasons being given for this view. Some organisations cited the principle that a person should be punished only once (with the appropriate punishment being under the criminal law) and also mentioned the impact on family, for example:

If someone is guilty of bigamy or an immigration offence the appropriate sanction/deterrent is prosecution and sentence for the relevant offence. In relation to subsequent attempts at sponsorship by that person, again the emphasis should be on factual inquiry; the fact that a person has previously abused the process should cause the UKBA to investigate the application carefully for evidence of fraud. A ban, however, may prevent a genuine partnership/marriage/family reunion and therefore unlawfully interfere with the Article 8 and 12 rights of innocent applicants as well as the sponsor.
(Human Rights organisation)

There was also a view that 10 years was a disproportionate punishment or that the ban was too broad in scope

A person convicted of other offences, for example theft, would not be barred from being a sponsor of a visitor or a spouse, a conviction for bigamy, once the marriage(s) concerned are dissolved, does not prevent a person marrying again. It should have no relevance on sponsoring a person as a visitor. The proposal is too broad for justice.
(Legal sector organisation)

7.7 Countersigning of applications

We asked if we should provide scope for marriage-based leave to remain applications to be countersigned by a solicitor or regulated immigration adviser, as a means of confirming some of the information they contain.

54% of all respondents agreed that scope for this should be provided. 36% of all respondents disagreed. The level of agreement was slightly higher for individuals (55%, with 34% disagreeing). For organisations, 36% agreed and 56% disagreed.

Amongst the narrative responses, there were fears that allowing countersigning of applications in the way proposed, could create a two-tier system, with those unable to afford a legal adviser being subjected to additional scrutiny.

As with other proposals on sham marriages, some respondents suggested that introduction of countersigning by legal professionals would create additional burdens on them and also applicants.

Some respondents also questioned whether the UK Border Agency could be confident in the integrity of all solicitors and immigration advisers, for example:

Those solicitors such as this firm are respectable and upstanding and would cease acting for those whose instructions are untrue. It is our submission that certain rogue advisers may capitalise on such a requirement and offer to counter sign applications which more upstanding solicitors would not.
(Legal sector organisation)

There were also comments that legal advisers cannot be expected to confirm the legitimacy of clients' relationships or the veracity of documents. Other respondents identified a potential conflict of interest or ethical issues about the role of solicitors.

7.8 Local authority checking services

We asked if there should be scope for local authorities to provide a charged service for checking leave to remain applications, including those based on marriage, as they can do for nationality and settlement applications.

59% of all respondents agreed there should be scope for this. 62% of individual respondents agreed with the proposal. 41% of organisations agreed, with 48% disagreeing.

Amongst the narrative responses, there was support for this proposal, notably from registrars:

Yes – we think that there would be merit in having a checking service but it would need to be separate from the notice taking function. The checking service would need to be like NCS and be the basic checking of an application with case work staying with UKBA. The checking would effectively merely be doing some of the routine aspect for UKBA but improving the customer experience and allowing UKBA to concentrate on any suspicious applications or applications that needed further scrutiny.
(Registrars)

However, such support was often caveated by either requests for clarification on what was involved or comments on the need for local authorities to recover costs,

A small number of narrative responses gave reasons for opposing this proposal. Here there was a reference to such a checking service creating a potentially worrying conflation of the roles of local authority officials and solicitors. There was also a view that local authority staff did not have the appropriate skill or resources.

Looking across all the questions on tackling sham marriage, there was considerable support from registrars for this set of proposals. However, this was often accompanied by requests for more clarification on the details of the proposals. In addition, there were concerns about additional burdens on local authorities. Many other narrative responses, notably from women's and legal groups, were less supportive of the proposals around sham marriage.

8. Tackling forced marriage

We asked if someone is convicted of domestic violence, or has breached or been named as the respondent of a Forced Marriage Protection Order, should they be banned from acting as any form of immigration sponsor for up to 10 years.

80% of all respondents agreed that someone convicted of domestic violence, or who had breached or been named as a respondent in a Forced Marriage Protection Order, should be banned from being an immigration sponsor for up to 10 years. 82% of individuals agreed. This was one of the small number of proposals where there was majority agreement from organisations, with 58% agreeing with the proposal (34% disagreed).

For this and other questions on forced marriage, the online survey did not invite write-in comments. However, some of the narrative responses did provide additional views on these questions.

Amongst these comments, there was some support in principle for a sponsorship ban of up to 10 years, as in this comment from a Muslim women's organisation:

While [a ban] will not in itself stop someone being an abuser, and they can go on to marry someone in this country, it would at least stop them bringing in a new spouse who would be vulnerable.
(Women's organisation)

However, the narrative responses from several other women's organisations (like those from many other voluntary and community sector and legal groups) expressed the view that this proposal did not offer women meaningful protection from domestic violence or forced marriage. This was often linked to the view that forced marriage should not be treated as a migration issue, and did not always have a transnational dimension, for example:

We believe that only long term solutions – involving genuine partnerships with grass roots women's human rights organisations will help to tackle the problem [of forced marriage]. ... [W]e strongly oppose proposals which link forced marriage to the imperatives of immigration control. ... Much of the commentary on forced marriage in this section [of the consultation document] has nothing to do with immigration matters, which begs the question as to why it is included at all and for whose benefit?
(Women's organisation)

We do not believe that this proposal will offer women meaningful protection from violence. Only a small proportion of women experiencing domestic violence report that violence to the police or support a criminal prosecution. Even in cases where women do report, the conviction rate for offences that relate to domestic violence or other forms of violence against women remain of concern. This proposal will therefore only prevent a small minority of perpetrators of violence from being able to sponsor a spouse or other partner; it will not prevent them from forming other abusive relationships
(Women's organisation)

Such comments were sometimes accompanied by a view that the proposals were disproportionate to the scale of the issue, for example:

It is ... unclear whether imposing a ban on immigration sponsorship for anyone convicted of domestic violence or named in a forced marriage protection order would actually reduce the capacity or opportunity for those involved in perpetrating a forced marriage.. The need to prevent forced marriage must not be used as an excuse to introduce measures which hit disproportionately at genuine marriages and any changes to the immigration rules which have the stated aim of preventing forced marriage must be narrowly targeted to achieve that specific aim
(Human Rights organisation)

As with the above discussion of bans associated with sham marriage, there was also a view in some of the narrative responses (notably from the legal sector) that there should not be a blanket ban. Instead, cases should be decided on an individual basis.

Some also questioned whether a ban should apply to sponsorship of all migrants, or only to spouses, for example:

It is also unclear why sponsoring for example a student's studies should be affected by a conviction. It should however be taken into account if someone seeks to sponsor a spouse.

(Member of Parliament)

The same respondent also felt that the proposal contradicts the principle that a person should only be punished once:

[T]his raises the question of double jeopardy/double punishment, and the right of appeal against any ban. UKBA is proposing that people convicted of one offence, and sentenced for it, should also have a further, non-judicial penalty imposed on them. It is not clear why some convictions can have an extra consequence.
(Member of Parliament)

We asked if the sponsor is a person with a learning difficulty, or someone from another particularly vulnerable group, should social services departments in England be asked to assess their capacity to consent to marriage.

74% of all respondents agreed social services should be asked to assess a vulnerable correspondent's capacity to consent to marriage. 76% of individuals agreed. This was another of the small number of proposals where there was majority agreement from organisations, with 53% agreeing with the proposal (35% disagreed).

Amongst the narrative responses, there was a view that, before it was taken forward, there should be consultation on the proposal with social services departments and appropriate professional groups. Some other respondents commented that social workers might not always have the skills to undertake complex assessments. A number of the narrative responses suggested that assessments should be done by medical professionals or mental capacity advocates, rather than social workers. These views are reflected in the responses below:

If a sponsor is known to have learning difficulty or other vulnerability it's important that his/her capacity to consent should be assessed. However, it should be a formal assessment made by medical professionals and not just social workers who don't have the medical expertise in determining a person's capacity.
(Women's organisation)

It is not the role of local authorities to carry out the work of border agencies. If a capacity test is to be carried out it should be done by the professional body that is to give effect to the decision i.e. the Border Agency. The Mental Capacity Act (MCA) Code of Practice dictates that this should be the case. The MCA Code of Practice clearly indicates that a capacity test should not be carried out solely on the basis of a person having a learning disability. There must be reasonable grounds to believe the person lacks capacity to make that decision.
(Local Authority)

[I]t is certainly not the case that an applicant who has learning difficulties or is otherwise 'vulnerable' is required to undergo capacity testing in relation to their decisions about handling their finances, or accepting medical treatment. Instead assessments are undertaken where such individuals show signs that they are having difficulty in understanding or making decisions. Accordingly we believe that where sponsors show signs that they are having difficulty understanding or making decisions with regards to sponsoring a spouse/partner, social workers should be asked to undertake an assessment of capacity under the Mental Capacity Act 2005 and the relevant codes.
(Voluntary sector organisation)

The proposal was supported in a small number of narrative responses, providing it was not used to deny people's right to marry. On a similar theme, some respondents said the proposal should not be applied in a blanket way to all disabled people:

9. ECHR Article 8: individual rights and responsibilities

We asked if the requirements we put in place for family migrants should reflect a balance between Article 8 rights (to respect for private and family life) and the wider public interest in controlling immigration.

52% of all respondents agreed that such a balance should be reflected. 31% disagreed. 54% of individuals and 40% of organisations agreed (with 30% of individuals and 48% of organisations disagreeing).

Of those who agreed that the requirements put in place for family migrants should reflect this balance, the main themes emerging from write-in comments were:

- That the balance should be weighted in favour of Article 8 unless the migrant has committed a criminal offence or was a threat to the public (122)
- That the balance should be weighed in favour of the wider public interest (90)
- Expressions of agreement because at the moment Article 8 is too powerful and the case law does not strike an appropriate balance (86)
(1,774 people answered 'yes' and 417 left a comment)

For those who disagreed, three contrasting viewpoints emerged as the most frequently mentioned themes in the write-in comments:

- That Article 8 should be an absolute right, so no balance should be struck/balance should be in favour of Article 8 (114)
- The interests of the public/UK should come before the right to a family life of the immigrant (46)
- ECHR case law has already struck a balance (35)
- The human rights of migrants should be just as much respected as the rights of British citizens (21).
(1,065 people answered 'no' and 344 left a comment)

Reflecting similar themes, there was a widespread view, expressed in the narrative responses, that the right to family life, protected by Article 8, already involves balancing individual rights against those of other members of society. Many therefore thought this existing balance did not need to be changed, for example:

Article 8 in its current form is not an absolute right but a qualified right which already encompasses a balancing exercise between the right to family life and the wider public interest in controlling immigration. [The organisation] opposes any curtailing of Article 8 via changes to the Immigration Rules and is concerned that any such changes may be incompatible with the European Convention on Human Rights.
(Voluntary sector organisation)

It is clear that Article 8 and the current immigration rules already allow for rights of family and private life of individuals facing deportation to be balanced against the wider public interest in controlling immigration, national security and the prevention of crime.
(Human Rights organisation)

The narrative responses also expressed some concern at myths and misreporting of the effects of Article 8, especially in immigration cases.

Recent press reports have not been as scrupulous as the judicial consideration given to cases where the courts have had to weigh up the balance between endorsing or preventing the deportation of people convicted of criminal offences. There seems to be a prima facie view that all such people should be deported. In the few cases of which we are aware the courts have come to just decisions – and we do not pretend that this is a representative sample – whereas media reporting of cases has been biased, inaccurate or incomplete.
(Campaign group)

[The organisation] is concerned by the current attacks not only on the Human Rights Act but specifically on the Article 8 right to respect for a private and family life and the way it works in immigration situations. The volume of misinformation, myths and partial reporting about the way human rights law works is staggering. Yet this is very clearly informing Government decision-making on significant policy and legal decisions affecting people's rights, as well as forming the context against which many other opinions about the issues are being formed, including responses to this consultation....rather than perpetuating myths and misinformation about the Human Rights Act the Government should do more to educate the public about their fundamental rights and freedoms and how the Human Rights Act offers important protections to all of us.
(Human Rights organisation)

We asked if a foreign national with family here has shown a serious disregard for UK laws, should we be able to remove them from the UK.

74% of all respondents agreed that we should be able to remove foreign nationals with family here in these circumstances. 76% of individuals and 48% of organisations agreed (with 43% of organisations disagreeing).

For those respondents who agreed that there should be the ability to remove a foreign national who has a family, if they had shown a serious disregard for UK laws, the main themes were that:

- Removal is fair or just and balances rights with responsibilities (362)

- Although agreeing with removal in some circumstances, this should depend on how serious the crime is or, similarly, removal should be for certain types of crimes and / or for repeat offenders only (159)
- This approach will help protect the public (81)
- Individuals can establish family life elsewhere or that this is consistent with Article 8 (47). (2,514 people answered 'yes' and 819 left a comment)

For those who disagreed, the most frequently expressed views were that:

- Foreign nationals who commit a crime in the UK should be punished in the UK (94)
- It is unfair to punish 'innocent' members of the family, either by separation or them moving overseas (39)
- Decisions to remove should depend on the type of offence, so effectively this was a similar view to that expressed by some of those who agreed with the question, as in the list of themes above (33). (658 people answered 'no' and 256 left a comment)

Amongst the narrative responses, some commented that the UK Border Agency already had the power to remove those who breach UK laws, so it was not clear what the proposal would add to this, for example:

The UKBA already has considerable powers to remove foreign nationals who have been convicted of criminal offences. The consultation does not provide any evidence that these powers are insufficient or details as to how they can be improved if they are.
(Women's organisation)

Similarly, there was a view, in the narrative responses, that the courts had established that the UK has the right to remove individuals, subject to consideration of their circumstances, for example:

The courts have clearly established that the UK has the power to remove such people, subject always to a fact-sensitive analysis of their and their families' individual circumstances and histories including such factors as length of residence, nationality of the affected parties, best interests of the children, seriousness of the breach of the UK laws, risk of reoffending, difficulties which will face the affected parties upon expulsion, and so on.
(Legal sector organisation)

There were also comments that the rights of migrants' family members needed to be considered, particularly those of any children:

Any nation state has the legal right and power to remove foreign nationals from their countries. But states, including the UK, need also to consider the effects of such removals on other family members, and in particular on children, both under s. 55 of the Borders, Citizenship and Immigration Act 2009, and the UK's other international obligations.
(Member of Parliament)

Such a person should be punished according to the law but by removing them from the UK one would be not only punishing the transgressor but also punishing his or her innocent family members for whom the enforced separation would be an unjust injury.
(Member of the public)

Looking collectively at the narrative responses, there was some support for removal in cases of serious disregard for UK laws, although some emphasised this should be only in the case of the most serious crimes:

If they have committed, with deliberate intent, serious crimes, I feel it is only right that they lose their privilege of living in the UK. They should not be allowed to use their family as an excuse for being allowed leave to remain in the UK – especially in the case of murder, sexual offences, assaults etc.
(Member of the public)

Yes, but it would be important to define what 'serious disregard' means in practice.
(Member of the public)

We asked if a foreign national has established a family life in the UK without an entitlement to be here, is it appropriate to expect them to choose between separation from their UK-based spouse or partner or continuing their family life together overseas.

52% of all respondents agreed that a foreign national without an entitlement to be here can be expected to make this choice. 38% disagreed. 54% of individuals and 28% of organisations agreed (with 37% of individuals and 60% of organisations disagreeing).

Of those survey respondents who agreed that a foreign national should be expected to make such a choice, the main themes emerging in their write-in responses were:

- A general view that making such choice was fair or a legitimate expectation of an individual (237)
- That a family or couple, in this situation, are able to continue their relationship overseas (108)
- That not having such a rule may lead to abuse by those who use Article 8 as a route to settlement (72). (1,789 people answered 'yes' and 555 left a comment)

Of those who disagreed that a foreign national should be expected to make such a choice, the main themes emerging in the write-in responses were that to do so would be:

- Unfair because it negatively impacts innocent family members (100)
- Immoral, harsh or unreasonable (97).
- A breach of ECHR Article 8 (81). (1,316 people who answered 'no' and 444 left a comment)

Similar points were made in a number of the narrative responses. A number of organisations developed the Article 8 argument, by making a further point about entitlement to be in the UK:

A person may become an overstayer or have an insecure immigration status for a number of reasons, because of the violence or abuse they have experienced, because of a change in the Immigration Rules or because of the length of time taken to make a decision on their case. The 'foreign national' referred to in the question may during this time go on to form a family relationship with someone who is UK, settled here or someone who themselves has either limited or no leave to remain in the UK....This balancing exercise [in Article 8] offers sufficient safeguards to the state as the question of whether or not it is proportionate to deny the foreign national leave to remain in the UK.
(Women's organisation)

It is unreasonable to expect someone who is a UK citizen to have to move country in order to have a family life with their spouse or partner. Children born in the UK should not be forced to move country in order to have a life with both parents. Once a family life has been established it must be recognised.
(Women's organisation)

Some respondents felt it was fair to expect a foreign national to make such a choice where they were in the UK in breach of the Immigration Rules:

If one does not have any right to be here and they have been here anyway, it means that they have broken the law in the first place. Allowing them to remain simply because they have made families will encourage many others do the same.
(Member of the public)

Leaving Britain is the only option for those without the right to stay in the UK. The government didn't force them to establish a family life in the UK, therefore they should be responsible for their own choice and face the consequences when they have to leave the UK.
(Member of the public)

The fact that they are here illegally and are in breach of immigration rules then they should forfeit their right to remain in the UK. UK should not be seen as an easy option either for marriage and civil partnership or for settlement. Reduce the prize ie marriage or civil partnership being used as a route to gain benefits of UK life and British nationality.
(Registrars)

We asked how we should we strike a balance between the individual's right under ECHR Article 8 to respect for private and family life and the wider public interest in protecting the public and controlling immigration.

The main themes emerging from the write in comments were:

- Those who have committed serious offences should not have a right to family life/only those with good conduct should have this right respected (285)

- Balance should be in favour of the public interest (207)
- Article 8 should be an absolute right or balance should be tilted in favour of Article 8 (142)
- Support for a UK Bill of Rights/other primary legislation, to redefine the balance (117)
- UK should withdraw from the ECHR or opt out of Article 8 (105).
(1565 answered the question)

Opinion was divided on whether there was a need for any additional measures to strike the balance. Examples of comments from those who felt there was no need for change:

Any requirements put in place for family migrants should be balanced with Article 8 rights, this is required by the ECHR. The public interest is not in controlling immigration but in achieving policy objectives such as preventing recourse to public funds and enhancing social cohesion. (Legal sector organisation).

This is already part of Article 8, which should be protected. The Human Rights Act must not be abolished or weakened under any circumstances.
(Women's organisation)

A balance is already struck between individual rights and wider policy goals around immigration. It is misleading to imply that the only public interest is in 'protecting the public and controlling immigration'. The public benefits widely from immigration and the economic and social benefits it brings. The public also benefits from the existence of the ECHR Article 8 and the universal application it has to the most vulnerable in society.
(Voluntary sector organisation)

Some felt there was merit in giving consideration to further measures, in particular where there has been a breach of UK laws or to safeguard the public:

A presumption should apply that anyone who has entered the UK illicitly or committed a serious offence here relinquishes rights normally applicable under ECHR Article 8.'
(Member of the public)

Respect for family and private life should never be subservient to the maintenance of law and order and protection of the public which, it would seem in the past few years, has become the norm with several well publicised cases but equally, the judiciary should not be castigated for upholding the law of this land. The HRA1998 was passed with the agreement of all the parties and if you don't like the way it has been 'hijacked' do something about it as opposed to moaning about the judiciary who can only work with what you give it. Why not look at the family policies of our European colleagues? They are as bound by the 1950 Human Rights Convention as we are but they don't seem to have the same trouble in removing those who disregard their laws as we do by claiming Article 8. Why not?
(Member of the public)

More consideration needs to be given to respecting the UK and its lawful residents. Any infringement should automatically negate Article 8, e.g. terrorists or active incitement of hatred for the British way of life.
(Legal sector organisation)

10. Family visitors

Survey respondents were asked how the UK Border Agency could improve the family visit visa application process, in order to reduce the number of appeals. The most frequently mentioned themes were:

- Making the guidance specific, not vague, outlining exactly what documents and/ or evidence is required to support the application (237)
- The need for better training for Entry Clearance Officers (ECOs) and other UK Border Agency staff (215)
- Not allowing appeals or severely restricting the grounds for appeal (179)
- Having a simpler, clearer or otherwise improved application form (149)
- Not allowing any new information or evidence to be submitted at appeals (119)
- Having an intermediate stage between the first submission of a visa application and an appeal, where there is an opportunity to submit any additional documents that may be missing and which should be requested by ECOs (101)
- Charging a fee for appeals (100)
- Providing a paid or free checking service or helpline (92)
- Offering guidance and application forms in more languages (80)

(Based on 2,095 responses)

Many narrative responses commented on the need for clear guidance to enable applicants to submit all the required evidence in the first instance, thereby reducing the need for appeals. Many also mentioned the need for better training and guidance for ECOs/UK Border Agency staff to improve the quality of decision making; it was felt the number of successful appeals indicated incorrect decisions were being made at first application.

....In addition to reviewing UKBA decision-making processes, it is likely that some applicants do not fully understand the application process, resulting in the submission of new evidence on appeal by some. This could be addressed by reviewing and improving the guidance available to applicants, to ensure that they submit all necessary information first time and do not have to endure the cost of lodging an appeal or making a second application.

(Voluntary sector organisation)

We asked if, beyond race discrimination and ECHR grounds, there are other circumstances in which a family visit visa appeal right should be retained.

28% of all respondents agreed that there should be other circumstances in which a family visit visa appeal right should be retained. 39% disagreed. 33% were 'no opinion' responses. Responses were similar for individuals (27% agreed, 39% disagreed and 33% no opinion). For organisations, 47% agreed that there should be other circumstances where an appeal rights should be retained and 35% disagreed. There was a lower proportion of 'no opinion' responses (18%) from organisations.

The main themes emerging from the write-in answers were that:

- The appeal right needs to be retained as ECOs make bad decisions or may make a mistake (198)
- All applications should retain the right to appeal (156)
- Certain reasons for visiting should have a right to appeal, for example a visit following a bereavement, to see someone who is terminally ill, or for weddings and births (62)
(967 people answered 'yes' to this questions and 631 left a comment)

Amongst the narrative responses, there was a widespread view that the right of appeal should be retained in its entirety. Some added that there was little or no evidence of abuse of the family visit route or that there was no justification for the right to appeal to be removed:

The right to appeal should be retained in its entirety. We do not agree that the figures given in the consultation document in relation to evidence provided at appeal stage indicates any 'abuse' of the family visit application process. Indeed, the suggestion that applicants knowingly fail to submit the evidence required because they can do so at appeal makes little sense given the UKBA's assertion that most applicants seek to enter the UK for visits at a particular time and / or for a particular occasion. If the UKBA wishes to reduce the number of appeals against refusals to family visit visas it should focus on improving the quality of decision making and the guidance given to applicants and decision makers.

(Women's organisation)

Many respondents felt that the removal of appeal rights would allow poor decision making to go uncorrected:

We are strongly opposed to any removal of the right to appeal in family visa applications. It is a necessary safeguard against malpractice, negligence and discrimination. This is especially relevant in a context where a high number of cases are successful at appeal suggesting that poor quality decision making is widespread.

(Women's organisation)

11. General questions

11.1 Tackling abuse

We asked what more can be done to prevent and tackle abuse of the family route, particularly sham and forced marriage.

The most frequently mentioned write-in suggestions, on the online survey, were grouped into the following themes:

- Interviewing the couple separately, or with their family members. For sham, this could be used to check if the couple really know each other and if family members can verify that the relationship is genuine. For forced marriage, interviews could be used to check that the marriage is consensual (268)
- Harsher penalties for those who take part in sham or forced marriage, with suggestions including fines, prison sentences and deportation (194)
- More thorough checks of all documents and applications for marriages received before the marriage takes place. Checks for genuineness could include looking at relatively large age disparities, addresses, history of the sponsor, having a common language and nationality profiling (158)
- Requiring evidence of a lasting and genuine relationship, e.g. photographs, marriage certificates and call records (153)
- Involve wider community to help tackle this problem (sham and forced) greater education in schools, a hotline for members of public to report sham, social services to be alert to such possibilities (90)
- Monitor any couples suspected of sham after the marriage has taken place. Suggestions for how to monitor included unannounced visits and covert spying (78)
- Extend the probationary period for settlement to deter sham (64)
(1,773 online respondents answered this question)

Some made the point that the onus should be on the UK Border Agency to identify, target and reduce abuse rather than making the whole process more difficult for all couples (a similar point about 'proportionality' was made in some narrative responses). Unless this was done, genuine couples would be penalised.

Amongst the narrative responses, there were also a number of suggestions were made in response to the question on tackling abuse of the family route. As can be seen from the list below, some of these suggestions were also directed towards the UK Border Agency itself:

- Consideration of the Independent Chief Inspector's recommendations on better implementation of the current rules
- Efficient processing of applications
- Training on identifying sham and forced marriage and awareness-raising with communities and in schools. Awareness-raising with people vulnerable to forced marriage was specifically mentioned by some
- Funding for advice and representation, including specialist services to support victims of forced marriage
- Curtailing temporary leave where sham was suspected and acting on cases where the marriage ends immediately after indefinite leave is granted
- Removal of those party to a sham marriage and forced marriage perpetrators
- Closer working between local authorities, UK Border Agency and the police.
- Using publicity on tackling sham marriages, for example in registry offices.

Many narrative responses made a more general argument against forced marriage being considered as an immigration issue, for example:

We believe it is inappropriate that the Immigration Rules are being viewed as a key means to addressing 'sham' and forced marriages. In the case of the latter, the Forced Marriage (Civil Protection) Act 2007 should provide the safeguards necessary for the vulnerable, or it should be amended to exercise proper authority. There are many complex issues at play in both types of marriage which are not in any way related to immigration issues and deserve to be dealt with in their appropriate and unique contexts.
(Voluntary sector organisation)

Legally, sham and forced marriage are two very different issues and it would be inappropriate to conflate the responses to these issues. Nor are they specifically immigration-related issues. In cases of suspected sham marriage for immigration purposes, a crucial role should be given to the improvement of decision making standards among UKBA staff through appropriate training and guidance. For the forced marriages, victims, potential victims, members of their families and the public should have access to specialist publicly funded support services and representation.
(Voluntary sector organisation)

There were also some comments questioning whether there was evidence of significant abuse of the family route, particularly around the link between forced marriage and migration (as discussed above) and the extent of sham marriage:

[T]here is no empirical evidence to show a direct link between forced marriage and the abuse of the immigration system in the majority of forced marriage cases. It is widely known that there are a variety of

motivations behind forced marriages, and without empirical evidence that immigration is the (or at least a) primary motivation it is irresponsible and misleading to posit an immigration based solution since it will not tackle the root cause of the problem or provide effect protection.
(Women's organisation)

The question of what more can be done to prevent and tackle abuse is less important than establishing whether the family route is currently being abused. Insufficient evidence is provided in the consultation that there is abuse.
(Legal sector organisation)

11.2 Promoting integration

We asked what more can be done to promote the integration of family migrants.

The main themes emerging from the write in comments were:

- A compulsory English language requirement (450)
 - Offer English language classes (either free of charge or charge a fee) (216)
 - Education on 'British values' such as democracy/equal rights; education on life in the UK (138)
 - Dispersal of migrants to stop 'ghettoism' (99)
- (1583 answered this question)

Several respondents said integration cannot be promoted by legislation. Some voluntary and community sector groups felt integration is a two way process, the contribution migrants make to the UK should be valued and misconceptions about the impact of migration should be challenged. Women's groups generally felt that integration could best be achieved by a fair and just immigration system. Many respondents across the sectors mentioned access to English lessons would assist integration:

The integration of family migrants is best achieved through the development of a just and fair immigration system. Family migrants contribute to life in the UK, their contribution should be valued. The widening of the provision of ESOL classes for adults will promote integration.
(Women's organisation)

I do not believe you can legislate to promote integration. You could perhaps try to create a better environment where integration may be more likely to happen. For example, trying to reduce the disproportionate fear of immigrants that this country still suffers from and is promoted by media and government rhetoric about immigration being out of control. More positively, promoting a more mixed model of urban living might promote integration - ie try to provide housing designed for a more mixed group of people to avoid ghettos of certain social classes or migrant groups.
(Member of the public)

Integration does not arise out of rule changes that make it more difficult for people to come here and stay, particularly if there is inadequate justification provided by UKBA for this change. Instead, this approach is likely to generate resentment and mistrust from migrants and their families. If the government wishes to promote integration, it needs to acknowledge that the real motivation of the majority of family migrants is perfectly legitimate, and that they make a cultural and economic contribution to the UK and to local communities. As such, UKBA would be well-advised to devise family migration policies which treat family migrants with respect, and which facilitate rather than inhibit their moving to a position of security as quickly as possible in the UK.
(Voluntary sector organisation)

More resources and information to access English classes and support so that family migrants are able to integrate quickly and easily in to the UK.
(Member of the public)

Some respondents suggested encouraging voluntary work or community activity as a way of increasing integration:

Family members should be encouraged to integrate through voluntary work and community initiatives. The UKBA should however be sensitive to cultural differences and the fact that negative publicity regarding migrants has produced racial tensions in some communities.
(Legal sector organisation)

Learning English and having to show participation in the wider community, i.e. attending wider regular activities, voluntary work or working (some, not all)
(Private sector organisation)

11.3 Reducing taxpayer burden

We asked what more can be done to reduce burdens on the taxpayer from family migration.

The main themes emerging from the write in comments were:

- Restrict family migrants' access to welfare state services and/or make healthcare insurance mandatory (577)
- Require proof of self sufficiency before entry of the family migrant (186)
- Minimum income and housing requirement for the sponsor/must not be on benefits (other than disability related) (157)
- Increase visa fees/require a bond to bring in dependants (47)
- Stop all interpretation/translation services (44).
(1779 answered this question)

In the narrative responses, there was a widespread view that there was no evidence that family migration is a burden on the taxpayer and that family migrants are likely to also be taxpayers, therefore no distinction should be drawn between these groups:

I think more detailed information would be needed to actually establish to what extent family migrants are a burden on the taxpayer, most migrants who come to the UK in pretty much every category are subject to conditions preventing access to public funds so I would argue when analysed against the economic contributions made by migrants the drain on public funds is negligible.
(Private sector body)

There is no evidence that family migration is a significant burden on the public purse. It is an extremely misleading feature of this consultation that a distinction is drawn between 'the taxpayer' and 'family migrants'. Many family migrants are able to work in the UK, meaning that they, as well as their spouses or partners, are also taxpayers. As such they have a right to expect that this contribution is not disregarded by UK politicians.
(Voluntary sector organisations)

Migrants are taxpayers too – the presumed opposition between the groups is false. The groups overlap and there is no reason why the money of all taxpayers should not be spent on the immigration control system – in the same way that the taxes of people without children pay for schools, or the taxes of people without cars pay for roads.
(Member of Parliament)

Some respondents, generally members of the public, felt restricting access to benefits would reduce the burden on the taxpayer:

No access to any benefits or free healthcare. Those coming to the UK must take out an American style healthcare insurance to pay for their treatment should they need it. Only after 10 years should they get access to public funds and free NHS.
(Member of the public)

No access to free NHS care. A health insurance certificate should be produced by the visa applicant at the point of application for entry clearance.
(Member of the public)

Benefits should only be paid for British Citizens. Children with non UK passports should not be paid child benefit. Introduction of a higher national insurance rate for non British citizens. (Member of the public)

No benefits, including NHS, granted unless a minimum of NI contributions have been made. If retirees, then private health insurance must be bought, or a yearly contribution to the NHS. (Member of the public)

12. Conclusion

Looking across all responses, there was broad support for many of the consultation proposals. As detailed in the findings above, proposals with less support included those around changes to probationary periods prior to settlement, changing the length of leave for dependants approaching their 18th birthday and changes to family visit visas (although the latter two areas had a relatively high level of 'no opinion' responses). The highest levels of agreement related to proposals around everyday English requirements for spouses and partners, tackling forced marriage and some of the proposals relating to sham marriage.

Organisations were much less supportive of the proposals than were individual respondents. There were few proposals which attracted majority support from organisations. These included everyday English as a requirement for settlement, proposals on forced marriage and some of the proposals around sham marriage, as detailed above.

The narrative responses also reflected the more critical stance of many organisations, with particularly strong opposition to the proposals on a minimum income threshold, extending the probationary period before settlement and around ECHR Article 8.

Consultation proposals and the Government's response

MARRIAGE AND PARTNERSHIPS	
Proposal – consultation questions	Response
Define more clearly what constitutes a genuine and continuing marriage, relationship or partnership for the purposes of the Immigration Rules.	We will make this change. We will publish in new casework guidance a list of objective factors associated with genuine and non-genuine relationships to help caseworkers focus on the genuineness of the relationship.
Introduce an 'attachment to the UK' requirement.	We are not making this change.
Introduce a minimum income requirement for sponsoring a non-EEA national spouse or partner to come to or remain in the UK under the family migration route.	We will make this change. We will introduce a minimum income requirement of £18,600 for sponsoring a non-EEA spouse or partner, with higher amounts for non-EEA children under the age of 18. For sponsoring a non-EEA spouse/partner and one child, the requirement will be £22,400, with an additional £2,400 for each additional child sponsored before the migrant spouse or partner qualifies for settlement.
Require those sponsoring family migrants to provide a local authority certificate confirming their housing will not be overcrowded where they cannot otherwise provide documentation to evidence this.	We are not making this change now but will continue to consider this proposal. The existing accommodation requirements will continue to apply for the time being.
Extend the probationary period before spouses and partners can apply for settlement in the UK from 2 years to 5 years.	We will make this change. Spouses and partners will be required to complete a minimum 5 year probationary period before they can apply for Indefinite Leave to Remain (settlement) in the UK.
Remove the provision for spouses and partners to be granted immediate settlement where they have lived overseas with their sponsor for at least 4 years.	We will make this change. Spouses and partners who have lived overseas with their sponsor for 4 years or longer will also be required to complete a 5 year probationary period before they can apply for Indefinite Leave to Remain (settlement) in the UK.
Require spouses and partners applying for settlement in the UK to understand everyday English.	We will make this change. From Autumn 2013 spouses and partners, and all other applicants for settlement, will be required to pass the Life in the UK Test and provide an English language qualification in speaking and listening at B1 level or above of the Common European Framework of Reference for languages to qualify for settlement. There will be provision for exemptions in certain specified circumstances.
TACKLING SHAM MARRIAGE	
Proposal	Response
Combine some of the roles of registration officers in England and Wales and the UK Border Agency as a way of combating sham marriage.	We are continuing to consider this proposal.
Require more documentation of foreign nationals wishing to marry in England and Wales to establish their entitlement to do so.	We are continuing to consider this proposal.

Require some couples including a non-EEA national to attend an interview with the UK Border Agency between giving notice of their intention to marry and being granted authority to do so.	We are looking at new measures in the UK Border Agency's processes and in our work with partners to identify and disrupt sham marriages, ensure they bring no advantage in immigration terms, and bring to justice those involved. Targeted use of interviewing and home visits in both family route and EEA cases is being considered as part of the Agency's strategy to tackle abuse. Work is already underway with a view to ensuring intelligence is used to target resources where they will be most effective.
Consider making 'sham' a lawful impediment to marriage in England and Wales; and whether the authorities in England and Wales should have the power to delay a marriage where 'sham' is suspected.	We are continuing to consider this proposal in line with the undertaking the Prime Minister made in a speech on Immigration on 10 October 2011 to address the problem of sham marriages.
Consider whether local authorities that have met high standards in countering sham marriage should have greater flexibility and revenue raising powers in respect of sham marriage.	We are not making this change.
Restrictions on those sponsored here as a spouse or partner sponsoring another spouse or partner within 5 years of being granted settlement in the UK.	We are continuing to consider this proposal.
Consider whether someone found to be abusing the process, or convicted of bigamy or an offence associated with sham marriage, should be banned from acting as a sponsor for up to 10 years.	We are continuing to consider this proposal.
Scope for marriage-based leave applications to be countersigned by a solicitor or regulated immigration adviser as a means of confirming some of the information in the application.	We are not making this change.
Scope for local authorities to provide a charged service for checking leave to remain applications, including those based on marriage.	The UK Border Agency's current focus is to ensure that local authorities offering a checking service for settlement and/or nationality applications are aware of the family route changes and once implemented we will look at the scope to extend checking services further.

TACKLING FORCED MARRIAGE

Proposal	Response
Consider whether someone convicted of domestic violence, or who has breached or been named the respondent in a Forced Marriage Protection Order should be banned from acting as any form of immigration sponsor for up to 10 years.	We are continuing to consider this proposal.
Consider whether, if the sponsor is a person with a learning disability or is from another vulnerable group, social services departments in England should be asked to assess their capacity to consent to the marriage.	We are continuing to consider this proposal.

OTHER FAMILY MEMBERS

Proposal	Response
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<p>Introduce a minimum income requirement for sponsoring other family members coming to the UK.</p>	<p>The UK-based sponsor will not be required to meet the new minimum income threshold in order to sponsor an adult dependent relative. They will be required to demonstrate the relative will be adequately maintained, accommodated and cared for without recourse to public funds and to sign a 5-year undertaking to that effect.</p> <p>Those sponsoring children who do not qualify for Indefinite Leave to Enter will need to meet the new minimum income requirement.</p>
<p>End immediate settlement for adult dependants and dependants aged 65 or over; introduce a 5 year probationary period before they can apply for settlement in the UK.</p>	<p>We are not making this change. Qualifying adult dependants of British citizens or those with settled status will still be granted immediate settlement in the UK. They will need to apply from overseas.</p>
<p>Consider whether the age threshold for elderly dependants should be kept in line with the state pension age.</p>	<p>We are not making this change.</p>
<p>Look at whether there are other ways of parents or grandparents aged 65 or over being supported by their relative in the UK short of them settling here.</p>	<p>We will end the routine expectation of settlement in the UK for parents and grandparents aged 65 or over who are financially dependent on a relative here. Non-EEA adult and elderly dependants will only be allowed to settle in the UK where they have long-term personal care needs which can only be met in the UK by their relative here. Applicants will no longer be able to switch into this category from within the UK; they will be required to apply from overseas. UK-based sponsors can provide financial support to a relative overseas who does not meet this criterion.</p> <p>Qualifying adult dependants of British citizens or those with settled status will still be granted immediate settlement in the UK.</p> <p>Qualifying adult dependants of refugees or those granted humanitarian protection will still be granted limited leave and can apply for settlement once their sponsor has qualified for it.</p> <p>The list of relatives that can qualify will no longer include uncles and aunts.</p>
<p>Consider whether there should be any change to the length of leave granted to dependants nearing their 18th birthday, including lowering the age eligibility for child dependants to 17.5 years at the time of application.</p>	<p>We are continuing to consider this proposal.</p>
<p>Require dependants aged 16 or 17 and adult dependants under the age of 65 to speak and understand basic English before being granted leave to enter or remain in the UK.</p>	<p>We are continuing to consider this proposal.</p>
<p>Require adult dependants aged under 65 to understand everyday English before being granted settlement in the UK after the proposed 5 year probationary period</p>	<p>We are not making this change. Qualifying adult dependent relatives (parent/grandparent/son/daughter/brother/sister) of British and settled persons will not serve a 5 year probationary period but will still get immediate settlement. This includes those aged under 65. They will not need to demonstrate B1 English or pass the Life in the UK test to get immediate settlement.</p>
<p>POINTS BASED SYSTEM DEPENDANTS</p>	
<p>Proposal</p>	<p>Response</p>
<p>Increase the probationary period before settlement for Points Based System dependants from 2 years to 5 years. Only time spent in the UK on a route to settlement would count towards the 5 year probationary period.</p>	<p>We will make this change. Spouses and partners of migrants under the Points Based System will be required to complete a 5 year probationary period in line with other routes to settlement. They must be in a relationship in the UK with the PBS main applicant for 5 years. Only time spent in the UK on a route to settlement will count towards the 5 year probationary period.</p>

<p>Require adult dependants (aged under 65) under the points based system to understand everyday English before being granted settlement in the UK.</p>	<p>We will make this change. From Autumn 2013 all applicants for settlement will be required to pass the Life in the UK Test and provide an English language qualification in speaking and listening at B1 level or above of the Common European Framework of Reference for languages when applying for settlement. There will be provision for exemptions in certain specified circumstances.</p>
<p>OTHER GROUPS</p>	
<p>Consider ways in which the UK Border Agency could improve the family visit visa application process, in order to reduce the number of appeals.</p>	<p>The UK Border Agency has implemented all accepted recommendations from the reports of the Independent Chief Inspector of the UK Border Agency. We will continue to work with the Chief Inspector to identify areas for improvement in the handling of visa applications and build on the improvements that have already resulted from inspections. The UK Border Agency already publishes supporting documents guidance specifically for family visitors which is regularly updated. The visitor visa guidance is also translated into 6 languages: Arabic, Chinese, Hindi, Russian, Thai and Turkish. Changes will be made to the family visit application form setting out more clearly the information needed from customers and to help visa officers.</p>
<p>Restrict or remove the right to appeal against refusal of a family visit visa. Consider whether, beyond race discrimination and ECHR grounds, there are other circumstances in which a family visit visa appeal right should be retained.</p>	<p>We will make this change. Family visit visa appeals will be restricted by narrowing the current definitions of family and sponsor for appeal purposes in July 2012, subject to Parliamentary approval. Subject to Parliamentary approval of and Royal Assent to the Crime and Courts Bill, which was introduced on 11 May 2012, the full right of appeal against refusal of a family visit visa will be abolished by 2014. Link to Bill below: http://www.publications.parliament.uk/pa/bills/lbill/2012-2013/0004/2013004.pdf</p>
<p>Prevent family visitors switching into the family route as a dependant relative while in the UK.</p>	<p>We will make this change. Those in the UK as a visitor will not be able to apply for settlement in the UK as a dependent relative. They will need to apply for a visa from overseas in order to enter into the family route. Those here on a visit visa must leave at the end of it.</p>
<p>ECHR ARTICLE 8</p>	
<p>Should the requirements put in place for family migrants reflect a balance between Article 8 rights and the wider public interest in controlling immigration.</p>	<p>The requirements of the new immigration rules will reflect the Government's and Parliament's view of how the balance should be struck between the right to respect for private and family life and the public interest in safeguarding the economic well-being of the UK by controlling immigration and in protecting the public from foreign criminals. The new rules will provide a basis on which a migrant who cannot meet the income and other requirements of the 5 year family route to settlement can remain in the UK on a 10 year route to settlement on the basis of their family life, e.g. a child's best interests, where it would breach Article 8 to remove them.</p>
<p>Consider ability to remove from the UK foreign nationals with family here and who have shown a serious disregard for UK laws.</p>	<p>To reinforce the public interest in cases where the automatic deportation threshold is met and in other serious cases we will set out in the immigration rules clear criminality thresholds in terms of sentence length that will normally lead to refusal and removal.</p>
<p>Consider whether appropriate to expect foreign nationals who have established a family in the UK, without an entitlement to be here, to choose between separation from their UK based partner or continuing their family life together overseas.</p>	<p>The new immigration rules will provide a basis on which a migrant who cannot meet the income and other requirements of the 5 year family route to settlement can remain in the UK on a 10 year route to settlement on the basis of their family life, e.g. a child's best interests, where it would breach Article 8 to remove them. The rules will also set thresholds as to the circumstances in which criminality may outweigh family life and a child's best interests in considering whether deportation is appropriate.</p>
<p>IN GENERAL</p>	

What more can be done to prevent and tackle abuse of the family route, particularly sham and forced marriage.	The changes we are making to the probationary period for spouses and partners will help to assess the genuine nature of a relationship. The publication of objective factors associated with genuine and non-genuine relationships will help caseworkers to focus on these issues. We will continue to work closely with the Forced Marriage Unit on the issue of forced marriage.
What more can be done to promote the integration of family migrants.	The enhanced English language requirements will help to ensure family migrants have the necessary language skills to facilitate their integration into British society. We will continue to consider what more can be done to promote the integration of family migrants.
What more can be done to reduce burdens on the taxpayer from family migration.	The minimum income requirement for sponsoring a spouse or partner will ensure migrant spouses and partners are supported without becoming a burden on the taxpayer. The increased probationary period for spouses and partners will delay access to non-contributory benefits for a further 3 years. Those on the 10 year route to settlement will not automatically be granted access to public funds during that period. We will continue to consider whether more can be done to reduce burdens on the taxpayer.
How should we strike a balance between the individual's right under ECHR Article 8 to respect for private and family life and the wider interest in protecting the public and controlling immigration.	The requirements of the new family migration immigration rules will reflect the Government's and Parliament's view of how the balance should be struck between the right to respect for private and family life and the public interest in safeguarding the economic well-being of the UK by controlling immigration and in protecting the public from foreign criminals.
OTHER CONSULTATION PROPOSALS	
Consider the scope for further targeted use of interviewing and home visits for EEA residence permit applications.	Targeted use of interviewing and home visits in family route and EEA cases is being considered as part of the UK Border Agency's strategy to tackle marriage abuse. Work is already underway with a view to ensuring intelligence is used to target resources where they will be most effective.
Encourage the European Commission and Member States to review and, if necessary, supplement or amend the Guidelines on how certain aspects of the Free Movement Directive should be interpreted.	This is ongoing. The UK and other EU Member States agreed a range of measures in April 2012 with the aim of safeguarding and protecting free movement by preventing abuse by third country nationals. These include better intelligence and data sharing and analysis, more joint investigations and better identity document security.
Continue to work with member States on joint operations to tackle the criminal networks that facilitate sham marriages. Build on existing level of engagement with EU partners to share information bilaterally on patterns and trends of abuse.	This is ongoing. The UK and other EU Member States agreed in April 2012 measures to improve the dissemination of information, intelligence and best practice between Member States to deter and investigate abuse of free movement rights.
The Forced Marriage Unit plans greater publicity, both in the UK and overseas, of the consequences of forced marriage, and more work with communities affected by forced marriage, to publicise Forced Marriage Protection Orders and the support available from the Forced Marriage Unit.	The Forced Marriage Unit has undertaken a wide programme of outreach activity to practitioners and communities both in the UK and overseas, to ensure that people working with victims are fully informed of how to handle such cases. For further details of current work see the FMU Spring newsletter at the link below http://www.fco.gov.uk/resources/en/pdf/travel-living-abroad/when-things-go-wrong/fmu-newsletter-spring-2012.pdf
The Home Affairs Committee of the House of Commons has recommended that the government legislate to make forced marriage a criminal offence in England and Wales. The Government will respond to that recommendation in due course.	The Government responded to the Home Affairs Select Committee recommendations in July 2011 and launched a consultation in E&W in December 2011 on whether forced marriage should be criminalised and how we might implement the criminalisation of breach of a forced marriage protection order. The consultation closed on 30 March 2012. On 8 June 2012 the Government announced that a specific criminal offence of forced marriage will be created in England and Wales.

<p>We will look at current interview arrangements for sponsors to see what more can be done to enable the UK Border Agency to identify those most likely to be at risk of forced marriage and, where appropriate, to refer sponsors to the Forced Marriage Unit and other help available.</p>	<p>We are continuing to consider this proposal. The list of objective factors associated with genuine and non-genuine relationships will help UK Border Agency caseworkers to focus on these issues.</p>
<p>We propose to publish clear guidance on the pathway out of forced civil marriage where the victim is willing to make a public statement.</p>	<p>We are continuing to consider this proposal.</p>
<p>Subject to the Supreme Court's judgment in Quila, we plan to maintain the minimum age of 21 for marriage visa applicants and sponsors.</p>	<p>Following the Supreme Court judgment in the case of Quila and Bibi v SSHD [2011] UKSC 45, the Immigration Rules were amended to reinstate a minimum age of 18 for marriage/partner visa applicants and sponsors with effect from 28 November 2011. The new immigration rules will maintain 18 as the minimum age.</p>
<p>Consider how far the arrangements for refugee family reunion should remain aligned with those for the family route following the consultation.</p>	<p>Pre-flight nuclear family members – spouses, partners and children – of refugees and those granted humanitarian protection are not affected by the changes to the immigration rules.</p> <p>Post-flight family members – e.g. a non-EEA spouse or partner with whom the refugee or person with humanitarian protection formed a relationship after they left the country in which they were resident – and adult dependent relatives will be subject to the requirements of the new immigration rules.</p> <p>Refugees and persons with humanitarian protection will continue to be able to sponsor in exceptional compassionate circumstances a child relative, e.g. the child of a dead or displaced brother or sister, without having to meet the minimum income threshold.</p>
<p>The Department of Health will consider, in a later consultation, whether the provision of medical insurance for certain categories of migrant, including on the family route, should be a requirement.</p>	<p>The Department of Health review, including the issue of medical insurance, is ongoing.</p>
<p>We are also considering whether wider pre-entry TB screening of overseas applicants should be part of the marriage visa application process.</p>	<p>The Government announced on 21 May 2012 that the current UK pre-migration TB screening programme will be expanded to visa applicants applying to stay in the UK for longer than six months from more than 80 countries with a high incidence of TB. The current programme covers 15 countries considered high incidence for TB by the World Health Organization and has demonstrated clear potential to detect active TB cases and achieve savings for the NHS.</p>
<p>Consider whether the couple should be required to have been in a relationship for a minimum of 12 months prior to the marriage visa or leave to remain application. Where a couple cannot provide evidence of this, for example because it is an arranged marriage, 12 months initial temporary leave could be granted to enable them to meet the criterion.</p>	<p>We are not making this change.</p>
<p>In applying the minimum income threshold, we propose to take into account only the income and cash savings (including in a joint account with the spouse or partner) of the UK based sponsor.</p>	<p>The employment income of the sponsor only will be taken into account at the entry clearance stage. The employment income of the sponsor and the migrant spouse or partner will be taken into account at all stages in the UK. The non-employment income and significant cash savings of the sponsor and the migrant spouse or partner will be taken into account at all stages.</p>
<p>Consider whether a person should generally be unable to sponsor a marriage visa or leave to remain application if they have claimed certain specified welfare benefits (excluding, for example, disability living allowance) or if they are an undischarged bankrupt.</p>	<p>We are not making this change.</p>
<p>Consider with DWP and HMRC the case for increasing the use of checks on sponsors' benefit and tax history as part of the process for checking that sponsors have the capacity they claim to support their spouse or partner and dependants in the UK.</p>	<p>We are continuing to consider this proposal.</p>

<p>We propose to ask local authorities in England to report to the UK Border Agency suspicions a couple are not residing together when they make a home visit to provide a housing certificate in support of a leave to remain application. We will invite the Scottish Government and the Northern Ireland Executive to consider making a similar request of local authorities in other parts of the UK.</p>	<p>We are continuing to consider this proposal.</p>
<p>We will consider whether the migrant spouse or partner should be required to apply to the UK Border Agency after 2 or 3 years to extend the probationary period to 5 years.</p>	<p>Leave will be granted in 30 month periods to make up the 5 year probationary period.</p>
<p>We will consider whether it is appropriate and practicable to require spouses and partners applying for settlement to be able to demonstrate that they can speak, read and write English at B1 level also.</p>	<p>Spouses and partners applying for settlement from October 2013 will be required to demonstrate speaking and listening skills at B1 level by providing a relevant qualification. We will not test writing skills. Some reading skills will be needed to pass the Life in the UK test, which will also be a requirement for settlement in all cases from October 2013.</p>
<p>It will continue to be important that those staying permanently in the UK have an understanding not just of English language, but also of British life and of the values and principles which underlie British society. These aspects are currently covered by the Life in the UK test or through the Citizenship materials used within the ESOL courses. We will be reviewing this approach and considering whether the integration process would be assisted by changes to the current testing regime.</p>	<p>Changes to the testing regime will be introduced to ensure that applicants demonstrate their understanding of both English language and of the principles and values underlying British life. From October 2013 all applicants for settlement will be required to demonstrate an ability to speak and understand English at an intermediate level (B1 level or above of the Common European Framework of Reference for languages) and to take the Life in the UK test. There will be provision for exemptions in certain specified circumstances.</p>
<p>We will examine whether there is a case for making English language requirements for those applying for British citizenship more demanding.</p>	<p>We are continuing to consider this proposal.</p>
<p>We will also consider what exemptions should apply to the English language requirements, for example for those with a permanent disability which prevents them from learning English; those who can evidence they have made a serious effort to reach the required level but have failed to do so; and those aged 65 or over when they apply for settlement.</p> <p>We will also consider how these and other settlement-related requirements will operate in respect of the spouses, partners and dependants of serving members of the Armed Forces.</p>	<p>We will continue to have a range of exemptions, including for those with disabilities and those aged 65 or over.</p> <p>We are continuing to consider the most appropriate arrangements for Armed Forces dependants. They will remain covered by the existing immigration rules for the time being.</p>
<p>We plan greater publicity of the nature and consequences of sham marriage, both overseas and in the UK.</p>	<p>We are continuing to consider this proposal.</p>
<p>We will explore the case for legislating to add 'proven sham' to the criteria for voiding or cancelling a marriage, and to enable the UK Border Agency, where it established that a marriage was a sham, to apply to the courts for it to be declared void. We will also explore options to give registration officers the power to retain documents to assist UK Border Agency investigations, and to ensure registration officers and the UK Border Agency have appropriate powers to share information with each other and other agencies (for example the police and local authorities).</p>	<p>We are continuing to consider this proposal.</p>
<p>We will invite the Scottish Government, the Northern Ireland Executive and the General Register Offices in Scotland and Northern Ireland to consider whether comparable provisions on sham marriage would be appropriate in other parts of the UK, and whether the scope in those jurisdictions to give notice by post of intent to marry should be removed or restricted.</p>	<p>We will invite colleagues in other parts of the UK to consider the appropriateness for them of any proposals for change in England and Wales in due course. There are no plans to invite them to consider changes to the process for giving notice of marriage.</p>

<p>We also propose greater scrutiny of marriage visa and leave to remain applications where the sponsor has previously sponsored such an application, to identify serial sponsors abusing the process.</p>	<p>Previous sponsorship of a spouse or partner can lead to additional scrutiny of a visa application under the published casework guidance on the factors associated with genuine and non-genuine relationships. We are continuing to consider whether further measures should be taken.</p>
<p>We will consider the scope, and would welcome suggestions, for other measures to contribute to our capacity to identify sham marriages and prevent them gaining an immigration benefit. For example, these could include: Looking at whether community groups and charities might play a role in sponsoring applications for leave to remain based on marriage. For example, such groups could be invited to add testimony in support of applications which might help the UK Border Agency assess the genuineness of the relationship and the likelihood of the couple residing permanently together. We would need to guard against the risk that, in some circumstances, such testimony could give weight to an application based on forced marriage.</p>	<p>We are not making this change.</p>
<p>We will consider the scope, and would welcome suggestions, for other measures to contribute to our capacity to identify sham marriages and prevent them gaining an immigration benefit. For example, these could include: restricting in-country switching into the family route from short-term visas under the Points Based System (for example Tier 2 (skilled workers), 12-month Tier 4 (students) and Tier 5 (temporary workers)) as a means of deterring some sham marriages.</p>	<p>We are not making this change.</p>
<p>We will consider the scope, and would welcome suggestions, for other measures to contribute to our capacity to identify sham marriages and prevent them gaining an immigration benefit. For example, these could include: requiring, on a targeted basis, applications for leave to remain in the UK on the basis of marriage to be made in person, particularly by those switching from another route. This could provide a basis for targeted interviewing of applicants to test whether the relationship is genuine and continuing.</p>	<p>We are continuing to consider this proposal.</p>
<p>We will consider the scope, and would welcome suggestions, for other measures to contribute to our capacity to identify sham marriages and prevent them gaining an immigration benefit. For example, these could include: targeted use of home visits to test whether the marriage remains in being before settlement in the UK is granted on the basis of it.</p>	<p>We are continuing to consider this proposal.</p>

ORGANISATIONS THAT RESPONDED TO THE CONSULTATION

The list includes some organisations, responding to the online consultation, who provided their organisational type or role (for example, advice agency, OISC-registered immigration advisers), but did not give the organisation's name.

In addition, there were some further organisations that responded to the online consultation, but did not provide any details of their organisational type, so cannot be listed here.

Advice agency
 Agudas Israel Community Services
 AIRE Centre (Advice Centre on Individual Rights in Europe)
 Administrative Justice & Tribunals Council
 All African Women's Group
 Amina – the Muslim Women's Resource Centre (joint response with the Waqf Charitable Trust)
 Amnesty
 Angelou Centre
 Association of Colleges
 Asylum Support & Immigration Resource Team, St George's Community Hub
 Avon & Bristol Law Centre
 Bangladeshi Association Midlands
 Birmingham Register Office
 Black Women's Domestic Abuse Network
 Black Women's Rape Action Project
 Board of Deputies of British Jews
 Boaz Trust
 Brent and Barnet Councils
 Bristol Register Office
 British Institute of Human Rights
 British Medical Association
 British Red Cross
 Cartwright King Solicitors
 Catholic Association for Racial Justice
 Catholic Bishops' Conference of England and Wales
 Children's Society
 Children in Scotland¹
 Church Communities UK
 Church of England Archbishops' Council
 Churches Refugee Network
 Citizens Advice Bureau Keighley
 City College
 City of Bradford Metropolitan District Council Neighbourhood Service
 Cochrane Tubes Ltd
 Committee for the preservation and strengthening of Judaism in the eastern countries
 Confederation of British Industry
 Convention of Scottish Local Authorities
 Discrimination Law Association
 Displaced People in Action
 Domestic Violence Intervention Project
 Durham County Council, Adults, Wellbeing and Health
 East Anglia Registration Board
 East Midlands Registration Managers Group
 East Riding Registration and Celebratory Services
 Eaves Housing
 Ethnic Minorities Law Centre

¹ Umbrella organisation for the children's sector in Scotland

Equality and Diversity Forum²
 Equality and Human Rights Commission
 Faculty of Advocates (professional organisation of the Scottish Bar)
 Fiona Mactaggart MP
 Freedom from Torture
 GARAS
 Garuda Publications
 Gateshead Council Community Based Services / Housing Services
 Girlington Advice and Training³
 Glen Solicitors
 Gwynedd Registration Service
 Hampshire Registration Service
 E Haq & Co Immigration Advisers
 Hitachi Capital (UK) plc
 Housing for Women
 Imkaan
 Immigration Law Practitioners' Association
 Independent Theatre Council
 Institute of Our Lady of Mercy
 International Care Network
 Iranian and Kurdish Women's Rights Organisation
 Joint Committee for the Welfare of Immigrants
 Joint response from 6 organisations in the North West: Salford Forum for Refugees and People Seeking
 Asylum, Manchester Faith Network, United for Change, WAST, Manchester Refugee Support Network and
 TRIO
 Justice
 Justice for Women
 Karma Nirvana
 Laura Devine Solicitors
 Law Centre (NI)
 Law Society of England and Wales
 Law Society of Scotland
 Learning Resource Network
 Legal Action for Women
 Leicester Lesbian, Gay, Bisexual and Transgender Centre
 Liberty
 Lighting Company
 Lincolnshire Registration and Celebratory Service
 Lloyds company Ltd (Thailand)
 Local Government Panel for Registration (England & Wales)
 London Borough of Newham
 LSE Human Rights Futures Project
 Markand & Co solicitors
 MediVisas UK LLP
 Migration Yorkshire
 Migrants' Rights Scotland
 Migrationwatch UK
 Mujeres Britanicas (Women in Britain)
 Muslim Women's Network UK
 National Alliance of Women's Organisations
 National Board of Catholic Women
 National Institute of Adult and Continuing Education
 Newport & District Refugee Support Group
 North East Regional Strategic Migration Partnership
 North West Regional Group of Registration Services Managers
 North West Regional Strategic Migration Partnership

² A network whose members include several national voluntary and community organisations.

³ This advice centre in Bradford enclosed 443 'petition' type responses, stating general opposition to a number of proposals on the grounds of negative impact on family life.

Northern Ireland Council for Ethnic Minorities
Northern Ireland Strategic Migration Partnership
Nottingham Register Office
No Recourse to Public Funds Network
Office of the Immigration Services Commissioner (OISC)
OISC-registered immigration advisers (unnamed)
Oxfordshire Registration Service
Peterborough Racial Equality Council
POhWER (advocacy and advice organisation)
Praxis Community Projects
Prison Reform Trust
Prisoners Advice Service
RCCG (the sanctuary)
Redditch Borough Council
Redeemed Christian Church of God, City of Refuge
Refugee Council
Refugee Forum Calderdale
Regional Panel of Local Registration Services, Yorkshire and Humberside
Registration Service Caerphilly
Registration Service (unnamed)
Rights of Women
Scottish Government
Scottish Women's Aid
Slough Immigration Aid Unit
Society of London Theatre and Theatrical Management Association
South East Registration Board
South Wales Registration Group
South West Regional Strategic Migration Partnership
Southall Black Sisters
Speechly Bircham
Staying Put
Trinity College London
UK Immigration adviser – de Prey Consulting
UK Immigration Law Chambers
UK and Ireland Notarial Forum
UK Yankee (Americans in the UK)
UNISON
University of Sheffield Students' Union
Unlock (the National Association for Reformed Offenders)
Unlock Democracy
Waqf Charitable Trust (joint response with Amina)
Welsh Government
Welsh Language Board
Welsh Refugee Council
Welsh Women's Aid
West Berkshire Registration Service
Women Against Rape
Women at the Well
Women's Resource Centre



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ANNEX C

		All respondents (n= 4,950)			Individuals (n= 3,130)			Organisations (n= 243)			
		Count	Percentage	Number responding to question	Count	Percentage	Number responding to question	Count	Percentage	Number responding to question	
Question 1: Should we seek to define more clearly what constitutes a genuine and continuing relationship, marriage or partnership, for the purposes of the Immigration Rules	Yes 2912 62% No 1319 28% No opinion 476 10%	4707	2092 68% 803 26% 190 6%	3085	80 36% 126 56% 18 8%	Yes 224 No 224 No opinion 224	Question 1: Should we seek to define more clearly what constitutes a genuine and continuing relationship, marriage or partnership, for the purposes of the Immigration Rules				
Question 2: Would an 'attachment to the UK' requirement, along the lines of the attachment requirement operated in Denmark: a) Support better integration?	Yes 2305 57% No 1296 32% No opinion 424 11%	4025	1793 60% 952 32% 255 9%	3000	78 35% 128 57% 17 8%	Yes 223 No 223 No opinion 223	Question 2: Would an 'attachment to the UK' requirement, along the lines of the attachment requirement operated in Denmark: a) Support better integration?				
b) Help safeguard against sham marriage?	Yes 2444 61% No 1245 31% No opinion 325 8%	4014	1915 63% 908 30% 197 7%	3020	86 40% 118 55% 12 6%	Yes 216 No 216 No opinion 216	b) Help safeguard against sham marriage?				
c) Help safeguard against forced marriage?	Yes 2297 58% No 1264 32% No opinion 377 10%	3938	1801 61% 924 31% 237 8%	2962	77 36% 124 57% 15 7%	Yes 216 No 216 No opinion 216	c) Help safeguard against forced marriage?				
Question 3: Should we introduce a minimum income threshold for sponsoring a spouse or partner to come to or remain in the UK?	Yes 2196 53% No 1831 44% No opinion 159 4%	4186	1759 57% 1282 41% 68 2%	3109	71 31% 150 65% 10 4%	Yes 231 No 231 No opinion 231	Question 3: Should we introduce a minimum income threshold for sponsoring a spouse or partner to come to or remain in the UK?				
Question 4: Should there be scope to require those sponsoring family migrants to provide a local authority certificate confirming their housing will not be overcrowded, where they cannot otherwise provide documentation to evidence this?	Yes 2357 58% No 1466 36% No opinion 256 6%	4079	1887 61% 1074 35% 144 5%	3105	84 37% 127 56% 18 8%	Yes 229 No 229 No opinion 229	Question 4: Should there be scope to require those sponsoring family migrants to provide a local authority certificate confirming their housing will not be overcrowded, where they cannot otherwise provide documentation to evidence this?				
Question 5: Should we extend the probationary period before spouses and partners can apply for settlement in the UK from the current 2 years to 5 years?	Yes 1860 46% No 2103 52% No opinion 110 3%	4073	1533 49% 1528 49% 46 2%	3107	65 28% 160 69% 7 3%	Yes 232 No 232 No opinion 232	Question 5: Should we extend the probationary period before spouses and partners can apply for settlement in the UK from the current 2 years to 5 years?				
Question 6: Should spouses and partners, who have been married or in a relationship for at least 4 years before entering the UK, be required to complete a 5-year probationary period before they can apply for settlement?	Yes 1733 43% No 2130 53% No opinion 168 4%	4031	1452 47% 1568 51% 87 3%	3107	58 25% 165 72% 6 3%	Yes 229 No 229 No opinion 229	Question 6: Should spouses and partners, who have been married or in a relationship for at least 4 years before entering the UK, be required to complete a 5-year probationary period before they can apply for settlement?				
Question 7: Should spouses and partners applying for settlement in the UK be required to understand everyday English?	Yes 3296 82% No 631 16% No opinion 102 3%	4029	2636 85% 421 14% 56 2%	3113	127 56% 94 41% 7 3%	Yes 228 No 228 No opinion 228	Question 7: Should spouses and partners applying for settlement in the UK be required to understand everyday English?				
Question 8: Which of the following English language skills should we test? (Based on those answering yes to Question 7)	Speaking 3164 96% Listening 2932 89% Reading 2492 76% Writing 2030 62% No opinion 56 2%	3289	2549 97% 2375 90% 2047 78% 1686 64% 40 2%	2636	121 95% 111 87% 83 65% 65 51% 2 2%	Speaking 127 Listening 127 Reading 127 Writing 127 No opinion 127	Question 8: Which of the following English language skills should we test? (Based on those answering yes to Question 7)				
Question 9: Should we (in certain circumstances) combine some of the roles of registration officers in England and Wales and the UK Border Agency as a way of combating sham marriage?	Yes 2916 74% No 704 18% No opinion 342 9%	3962	2404 77% 486 16% 223 7%	3113	96 43% 112 50% 18 8%	Yes 226 No 226 No opinion 226	Question 9: Should we (in certain circumstances) combine some of the roles of registration officers in England and Wales and the UK Border Agency as a way of combating sham marriage?				
Question 10: Should more documentation be required of foreign nationals wishing to marry in England and Wales to establish their entitlement to do so?	Yes 2414 61% No 1279 32% No opinion 251 6%	3944	2024 65% 930 30% 158 5%	3112	91 40% 125 54% 14 6%	Yes 230 No 230 No opinion 230	Question 10: Should more documentation be required of foreign nationals wishing to marry in England and Wales to establish their entitlement to do so?				
Question 11: Should some couples, including a non-EEA national marrying in England and Wales, be required to attend an interview with the UK Border Agency during the time between giving notice of their intention to marry and being granted	Yes 2438 62% No 1260 32% No opinion 230 6%	3928	2048 66% 918 30% 151 5%	3117	98 43% 120 53% 10 4%	Yes 228 No 228 No opinion 228	Question 11: Should some couples, including a non-EEA national marrying in England and Wales, be required to attend an interview with the UK Border Agency during the time between giving notice of their intention to marry and being granted authority to do so?				
Question 12: Should 'sham' be a lawful impediment to marriage in England and Wales?	Yes 2733 71% No 658 17% No opinion 466 12%	3857	2316 75% 456 15% 334 11%	3106	107 48% 96 43% 20 9%	Yes 223 No 223 No opinion 223	Question 12: Should 'sham' be a lawful impediment to marriage in England and Wales?				
Question 13: Should the authorities have the power in England and Wales to delay a marriage from taking place where 'sham' is suspected?	Yes 2918 75% No 748 19% No opinion 210 5%	3876	2441 78% 537 17% 135 4%	3113	118 51% 98 42% 15 7%	Yes 231 No 231 No opinion 231	Question 13: Should the authorities have the power in England and Wales to delay a marriage from taking place where 'sham' is suspected?				
Question 14: Should local authorities in England and Wales, that have met high standards in countering sham marriage, be given greater flexibility and revenue raising powers in respect of civil marriage?	Yes 2150 56% No 1106 29% No opinion 572 15%	3828	1808 58% 861 28% 438 14%	3107	80 35% 125 54% 26 11%	Yes 231 No 231 No opinion 231	Question 14: Should local authorities in England and Wales, that have met high standards in countering sham marriage, be given greater flexibility and revenue raising powers in respect of civil marriage?				
Question 15: Should there be restrictions on those sponsored here as a spouse or partner sponsoring another spouse or partner within 5 years of being granted settlement in the UK?	Yes 2339 62% No 1245 33% No opinion 220 6%	3804	2007 65% 949 31% 151 5%	3107	78 34% 140 61% 10 4%	Yes 228 No 228 No opinion 228	Question 15: Should there be restrictions on those sponsored here as a spouse or partner sponsoring another spouse or partner within 5 years of being granted settlement in the UK?				

Question 19: If someone is convicted of domestic violence, or has breached or been named as the respondent of a Forced Marriage Protection Order, should they be banned from acting as any form of immigration sponsor for up to 10 years?	Yes No No opinion	2930 452 287	80% 12% 8%	3669	2546 334 220	82% 11% 7%	3100	131 76 20	58% 34% 9%	227 No No opinion	Question 19: If someone is convicted of domestic violence, or has breached or been named as the respondent of a Forced Marriage Protection Order, should they be banned from acting as any form of immigration sponsor for up to 10 years?
Question 20: If the sponsor is a person with a learning difficulty, or someone from another particularly vulnerable group, should social services departments in England be asked to assess their capacity to consent to marriage?	Yes No No opinion	2706 608 336	74% 17% 9%	3650	2366 478 253	76% 15% 8%	3097	113 74 26	53% 35% 12%	213 No No opinion	Question 20: If the sponsor is a person with a learning difficulty, or someone from another particularly vulnerable group, should social services departments in England be asked to assess their capacity to consent to marriage?
Question 21: Should there be a minimum income threshold for sponsoring other family members coming to the UK?	Yes No No opinion	2045 1488 158	55% 40% 4%	3691	1809 1196 112	58% 38% 4%	3117	74 140 12	33% 62% 5%	226 No No opinion	Question 21: Should there be a minimum income threshold for sponsoring other family members coming to the UK?
Question 22: Should adult dependants and dependants aged 65 or over complete a 5-year probationary period before they can apply for settlement (permanent residence) in the UK?	Yes No No opinion	1730 1785 168	47% 49% 5%	3683	1541 1454 119	50% 47% 4%	3114	61 155 13	27% 68% 6%	229 No No opinion	Question 22: Should adult dependants and dependants aged 65 or over complete a 5-year probationary period before they can apply for settlement (permanent residence) in the UK?
Question 23: Should we keep the age threshold for elderly dependants in line with the state pension age?	Yes No No opinion	2210 1128 332	60% 31% 9%	3670	1931 906 275	62% 29% 9%	3112	91 115 13	41% 51% 8%	224 No No opinion	Question 23: Should we keep the age threshold for elderly dependants in line with the state pension age?
Question 24: Should we look at whether there are ways of parents or grandparents aged 65 or over being supported by their relative in the UK short of them settling here?	Yes No No opinion	1532 1534 578	42% 42% 16%	3644	1373 1269 466	44% 41% 15%	3108	54 137 31	24% 62% 14%	222 No No opinion	Question 24: Should we look at whether there are ways of parents or grandparents aged 65 or over being supported by their relative in the UK short of them settling here?
Question 25: Should there be any change to the length of leave granted to dependants nearing their 18th birthday?	Yes No No opinion	915 1926 777	25% 53% 22%	3618	831 1607 662	27% 52% 21%	3100	31 165 32	14% 72% 14%	228 No No opinion	Question 25: Should there be any change to the length of leave granted to dependants nearing their 18th birthday?
Question 26: Should dependants aged 16 or 17 and adult dependants aged under 65 be required to speak and understand basic English before being granted entry to or leave to remain in the UK?	Yes No No opinion	2359 1127 144	65% 31% 4%	3630	2109 905 100	68% 29% 3%	3114	88 127 13	39% 56% 6%	228 No No opinion	Question 26: Should dependants aged 16 or 17 and adult dependants aged under 65 be required to speak and understand basic English before being granted entry to or leave to remain in the UK?
Question 27: Should adult dependants aged under 65 be required to understand everyday English before being granted settlement (permanent residence) in the UK?	Yes No No opinion	2400 1067 130	67% 30% 4%	3597	2148 853 96	69% 28% 3%	3097	94 123 9	42% 54% 4%	226 No No opinion	Question 27: Should adult dependants aged under 65 be required to understand everyday English before being granted settlement (permanent residence) in the UK?
Question 28: Should we increase the probationary period before settlement (permanent residence) in the UK for points-based system dependants from 2 years to 5 years?	Yes No No opinion	1806 1593 185	50% 44% 5%	3584	1640 1322 141	53% 43% 5%	3103	68 151 14	29% 65% 6%	233 No No opinion	Question 28: Should we increase the probationary period before settlement (permanent residence) in the UK for points-based system dependants from 2 years to 5 years?
Question 29: Should only time spent in the UK on a route to settlement count towards the 5-year probationary period for points-based system dependants?	Yes No No opinion	1858 1413 296	52% 40% 8%	3567	1667 1172 251	54% 38% 8%	3090	72 137 23	31% 59% 10%	232 No No opinion	Question 29: Should only time spent in the UK on a route to settlement count towards the 5-year probationary period for points-based system dependants?
Question 30: Should we require points-based system dependants to understand everyday English before being granted settlement (permanent residence) in the UK?	Yes No No opinion	2691 750 135	75% 21% 4%	3576	2414 583 101	78% 19% 3%	3098	113 106 13	49% 46% 6%	232 No No opinion	Question 30: Should we require points-based system dependants to understand everyday English before being granted settlement (permanent residence) in the UK?
Question 32: Beyond race discrimination and ECHR grounds, are there other circumstances in which a family visit visa appeal right should be retained?	Yes No No opinion	967 1336 1126	28% 39% 33%	3429	827 1197 1017	27% 39% 33%	3041	102 75 38	47% 35% 18%	215 No No opinion	Question 32: Beyond race discrimination and ECHR grounds, are there other circumstances in which a family visit visa appeal right should be retained?
Question 33: Should we prevent family visitors switching into the family route as a dependent relative while in the UK?	Yes No No opinion	1901 1376 243	54% 39% 7%	3520	1742 1165 202	56% 38% 7%	3109	76 136 15	34% 60% 7%	227 No No opinion	Question 33: Should we prevent family visitors switching into the family route as a dependent relative while in the UK?
Question 34: Should the requirements we put in place for family migrants reflect a balance between Article 8 rights and the wider public interest in controlling immigration?	Yes No No opinion	1774 1065 557	52% 31% 16%	3396	1631 913 501	54% 30% 17%	3045	81 96 24	40% 48% 12%	201 No No opinion	Question 34: Should the requirements we put in place for family migrants reflect a balance between Article 8 rights and the wider public interest in controlling immigration?
Question 35: If a foreign national with family here has shown a serious disregard for UK laws, should we be able to remove them from the UK?	Yes No No opinion	2514 658 247	74% 19% 7%	3418	2324 526 204	76% 17% 7%	3054	106 95 18	48% 43% 8%	219 No No opinion	Question 35: If a foreign national with family here has shown a serious disregard for UK laws, should we be able to remove them from the UK?
Question 36: If a foreign national has established a family life in the UK without an entitlement to be here, is it appropriate to expect them to choose between separation from their UK-based spouse	Yes No No opinion	1789 1316 331	52% 38% 10%	3436	1665 1119 284	54% 37% 9%	3068	63 135 26	28% 60% 12%	224 No No opinion	Question 36: If a foreign national has established a family life in the UK without an entitlement to be here, is it appropriate to expect them to choose between separation from their UK-based spouse

Background consultation questions

		Count	Percentage	Number
How responses were made	Online	4,883	99%	4950
	email/post	67	1%	
Question 41: How did you hear about this	UK press (national	558	17%	3310
	UK Broadcast media (eg	162	5%	
	UK media websites (eg BBC,	371	11%	
	International press	120	4%	
	UKBA website (incl UK visas)	1446	44%	
	Other immigration advisory	246	7%	
	Overseas websites	62	2%	
	Word of mouth	430	13%	
	Social networking sites	325	10%	
	Other	227	7%	
Question 42: Are you responding to this consultation:	in an official capacity	243	7%	3373
	as a member of the public	3130	93%	
Sector of 'official capacity respondents'	Public	62	27%	228
	Private	74	33%	
	Voluntary	79	35%	
	Other	13	6%	
Question 43: If you answered as a member of the public to Q42, are you a British citizen?	Yes	2249	82%	2760
	No	511	19%	
Question 44: If you answered no to Q43, do you have a time limit on your stay in the UK?	Yes	254	59%	429
	No	165	39%	
	Don't know	10	2%	
Question 45: What is your sex?	Male	1829	64%	2844
	Female	1015	36%	
Question 46: what is your age?	16 to 19	12	<1%	2884
	20 to 24	144	5%	
	25 to 29	446	16%	
	30 to 34	573	20%	
	35 to 39	412	14%	
	40 to 44	268	9%	
	45 to 49	171	6%	
	50 to 54	135	5%	
	55 to 59	135	5%	
	60 to 64	173	6%	
	65 to 69	173	6%	
	70 to 74	136	5%	
	75 to 79	75	3%	
	80 or over	31	1%	
Question 47: What is your ethnic group?	White	1680	67%	2502
	Mixed / multiple	85	3%	
	Asian	542	22%	
	Black	163	7%	
	Any other	32	1%	
Question 48: Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?	Yes, limited a lot	61	2%	2906
	Yes, limited a little	152	5%	
	No	2693	93%	

2502

Notes

Questions 43 - 48 had a 'prefer not to say' option. These respondents are not included in the percentages above.