

SUBMISSION TO DWP MINISTER – 13 NOVEMBER 2007

POLYGAMOUS MARRIAGES AND THE BENEFITS SYSTEM

Issue:

Following a written PQ by Baroness Cox and some media interest, the Department announced on 11 November 2006 that an urgent review of the treatment of polygamous marriages would be undertaken to establish whether the current treatment was the best possible. Work was taken forward to develop the then Secretary of State's favoured option that such marriages should not have recognition in the benefits system. However, CST expressed the view in March 2007 that the status quo should be maintained. She gave two reasons; a change would mean that the benefits system would be out of step with the tax credits system, and would create lone parent status for people who are not lone parents. Special Advisers had been considering the way forward but a final view had not been reached before the recent Ministerial changes.

Annex A summarises the current treatment of polygamous marriages and the option favoured by the then Secretary of State.

Recommendation:

1. That you confirm there are no current plans for making changes to the current treatment of polygamous marriages in the benefit system.
2. If so, agree that we do not issue a formal public announcement of the outcome of the review but wait until we receive a further PQ or there is renewed press interest.

Timing:

Routine.

Implications**Financial:**

Comms/Press: Press Office will be involved and informed of the intended response. Lines to take are attached.

Special Adviser comments

Background

1. In November 2006, following some press interest, the Department issued the following statement:

“The benefit rules for people in polygamous marriages have evolved over decades. Ministers have asked officials to work across Government to urgently examine whether the current position is the best possible”.

2. Officials reported back to the previous Secretary of State in December 2006 recommending no change on the basis that the present treatment of polygamous marriages is the best one. It is cheaper than alternative options and is consistent with the approach to such marriages in the rest of Government.
3. After some consideration, Secretary of State decided that the benefits system should not recognise polygamous marriages in any way and asked officials to develop an option which would treat the husband and first wife as a couple and require second and subsequent spouses to make separate claims in their own right. At his request, you wrote to CST for agreement to this approach. CST replied on 07 March advising against a change (attached). Special Advisers were considering this response but had not come to a view on the best way forward. **No public announcement has been made about the outcome of the review announced last November.**
4. There was some sporadic press interest earlier in the year: from the Times newspaper from whom a Freedom of Information Request was received asking for background papers on the advice given to Ministers for the written PQ; and in April the Daily Express reported David Davis, MP for Monmouth, as expressing concerns that polygamous marriages are recognised for benefit purposes. Mr Davis was quoted as saying he would be writing to Ministers or putting down a PQ but we have received nothing so far.
5. It is now a year since the ‘urgent’ review was announced in the press. We have not yet reported the outcome but there is no immediate pressure to do so. We suggest that we wait for a suitable moment such as any renewed press interest or further PQs on the subject before considering a response.

Recommendation

6. You confirm that, in the light of the response from Treasury, there are no plans for changing the current treatment of polygamous marriages in the benefits system.
7. We do not make a formal public statement to the November 2006 announcement of a review. Instead we suggest waiting until we either receive a PQ or there is renewed press interest.

Annex A

Current Position

1. In Great Britain, polygamy is recognised only where the marriages have been performed in accordance with all the necessary requirements of the law of the country where the marriage ceremony was celebrated, and the parties to it are domiciled in that country. It is not possible for a person domiciled in Great Britain to enter into a polygamous marriage that will be recognised in UK law.
2. Regulations to address benefit claimants who are in a polygamous marriage have been in force for some time. For instance, in relation to income support, current regulations were introduced in 1987.
3. For contributory benefits, dependants' increases are generally not payable for any wives where a polygamous household exists. Where we do recognise the marriage, any dependants' increases in contributory benefits would be paid only in respect of that one marriage.
4. Income related benefits can be paid for more than one wife in a polygamous marriage where British law recognises the marriage and where the general conditions of entitlement for those benefits are met. The amount of benefit payable includes personal allowances for the main spouse and one partner at the appropriate couple rate. For each other partner, benefit is payable at the difference between the couple rate and the higher rate for a single person. In general therefore there is **no financial advantage** to claiming for those in polygamous marriages. Increases in income related benefits are not payable for wives who do not reside in Great Britain.
5. Any member of a polygamous marriage can claim a contributory or non-contributory social security benefit in his or her own right where he or she satisfies the relevant conditions of entitlement.
6. It is estimated there are fewer than 1000 polygamous marriages which have legal recognition in the Great Britain, and only a very small number of these will be claiming a social security benefit.

Option favoured by former SofS

7. Treat the polygamous family in the same way as any other monogamous family and insist that the second and subsequent spouse makes a separate claim in their own right. This already happens where the polygamous marriage is not recognised in UK law. The claimant claims for himself and one of his wives. Other wives make claims as single people and are subject to the standard conditionality requirements for the particular benefit.
8. For those marriages which are in fact monogamous at the time of death, the sole surviving spouse will continue to be treated as now and will, subject to conditionality, be able to gain derived benefits from the deceased's National Insurance contributions.
9. This option aligns the treatment of those in polygamous marriages with those in monogamous marriages who have relationships with multiple partners.

Lines to take

- No social security benefits are payable to polygamous wives who are resident overseas.
- In the contributory benefits, benefit is generally not payable where the marriage is actually polygamous. The exception to this is where an increase for an adult dependent may be paid **only** where there are children in the marriage. However, the increase is only payable to one wife. This compares less favourably to those in a monogamous marriage whereby an increase may be paid for the dependent spouse irrespective of whether there are children.
- There is **no** financial advantage in benefit terms for claimants in a polygamous marriage which is legally recognised in Great Britain. In fact the reverse is true.
- Polygamous marriages have legal recognition here **only** where the marriage ceremony was performed in accordance with the laws of the country in which the marriage is celebrated and the parties to the marriage were domiciled in that country.
- It is not possible for a person domiciled in Great Britain to enter into a polygamous marriage that will be recognised in UK law.
- Since the coming in to force of the *Immigration Act 1988 (c. 14)*, people have generally been unable to form polygamous households in the UK. Under this Act the law ceased to recognise virtually all marriages celebrated under a system recognising polygamy. However, since the coming into force of the *Private International Law (Miscellaneous Provisions) Act 1995 (c. 42)*, all potentially polygamous marriages which are actually monogamous are now valid under UK law.
- People entering into marriage in this country are expected to conform to our marriage laws.