



Reunite Families UK's Response to the Independent Human Rights Act Review Call for Evidence

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Introduction

Reunite Families UK works with families divided by or otherwise affected by the Government's immigration policy, including but not limited to those affected by the Minimum Income Requirement (MIR), the very high costs associated with applications to bring a foreign spouse to the UK, or other aspects of the rules.

Human rights implications of the current Immigration Rules and families

In recent months Reunite Families UK conducted quantitative studies amongst those affected in order to assess the scale of the impact of the Immigration Rules on family life. In particular, the following findings are noteworthy:

Length of separation time

None of our respondents had experienced a separation of less than 1 month. 4% experience separation between 1 and 3 months, 38% between 3 and 12 months, 34% between 1 and 3 years, 8% between 3 and 5 years, and 15% of 5 years or more. The most common separation period was between 3 months and 3 years.

Physical impact

95% of those surveyed reported a negative impact on their physical health (30% rated the impact as 'terrible'). 78% of those with children reported negative impacts on their children's physical health.

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Mental health impact

93% of those surveyed reported a negative impact on their mental health (35% rated the impact as 'terrible'). 84% of those with children reported negative impacts on their children's mental health.

Relationships

82% of those surveyed reported a negative impact on their relationships with their partners; 64% experienced negative impacts with friends and extended family members.

Finance

95% reported a negative impact on their career and finances due to long term separation (including 12% rating the impact as 'terrible', indicating destitution or bankruptcy).

Numbers affected

According to the APPG Migration report on the impact on families produced some time after the MIR was introduced, the 'reduction in family route visa grants per annum' was 13,600 to 17,800 (15,700). Even given a rise in median wages since then, it is easy to draw a conclusion that many tens of thousands of individuals and families have been affected. This is quite apart from the impact of every generation of a family and indeed the wider community. To quote the same APPG report, 'The Government Impact Assessment in June 2012 estimated that the introduction of a minimum income requirement of £18,600 would lead to an annual reduction in family route visas of between 36% and 46%' – this was an *expected* consequence from a Government that chose to interfere in the family lives of British citizens.

Some selected representative individual responses illustrating the human rights impact are below:

'I suffered a heart attack which has left me with lifelong heart problems. I've also lost my driving licence because of it. I had my own company as a HGV driver, so it's been devastating for us regarding the Minimum Income Requirement and ability to reapply for a spouse visa. I can't prove it, but I'm convinced that the stress and worry of visa refusals, being apart as a family, working long hours and 6-day weeks to meet the MIR, was a big cause of my heart attack.'

'Both adults have experienced mental health trauma and a physical manifestation of severe stress and anxiety due to this situation. Our daughter has also suffered due to these circumstances.'

'As the spouse I try and remain positive and throw myself into my work but have had dark thoughts, depression and personality and character changes. For my wife she has been in very dark places, depression, anxiety and character and personality changes. The question of should we divorce has been raised before. Only happy when I visit and we are together.'

'Families need a physical touch, a hug, a presence. Technology fails all too often, different time zones and work commitments, falling asleep from working double shifts while waking for matching off work time. Covid restrictions are a perfect example of how detrimental to health being unable to even place a hand into your loved one's hand can be.'

From all of the above, it is clear that there are major human rights failings regarding the current Immigration Rules as they relate to the personal, physical, financial and emotional health of British people and their non-UK families.

Relationship with Europe

The following questions are particularly pertinent to the work of Reunite Families UK:

Has the Human Rights Act led to individuals being more able to enforce their human rights in the UK? How easy or difficult is it for different people to enforce their Human Rights?

How has the operation of the Human Rights Act made a difference in practice for public authorities? Has this change been for better or worse?

Has the correct balance been struck in the Human Rights Act in the relationship between the domestic Courts and the European Court of Human Rights? Are there any advantages or disadvantages in altering that relationship?

It should be pointed out that in many cases, the existing Human Rights regime has failed to protect the rights of many UK families and their overseas partners and families. The UK was always a fully sovereign nation when it was a member of the EU and therefore able to enact such powers to interfere in family lives. However, there are exceptions.

Firstly, since the introduction of the Minimum Income Requirement, we have been made aware of many thousands of British people and their overseas families who would otherwise have been victimised by the UK's Immigration Rules, but who have been able to take advantage of European free movement rules in order to establish new lives for themselves and their families in Europe.

Some of these families have subsequently been able to exercise their freedoms to return to the UK using the so-called 'Surinder Singh route'; some have chosen to remain in Europe. Indeed, many of those active in campaigning for a fairer family immigration regime fall into this category.

Either way, we applaud the ability to exercise such freedoms to keep British families together, and we deplore the loss of such freedoms.

Secondly, we are also well aware that with Brexit, the scope of the very draconian rules can only expand to encompass those with partners or family members in Europe. This includes spouse and other forms of partners. It also includes multinational families with children. It also includes families with elderly dependent relatives – a much-overlooked category.

The impact on partners under the current regime was covered by the APPG Migration report in 2014, by the 2020 Kept Apart Project by Bristol University and Reunite Families UK, and by recent submissions to various parliamentary committees by Reunite Families UK; the impact specifically on children was highlighted by the Children's Commissioner's report on the matter in 2015; the impact on elderly

dependent relatives was explored by the JCWI/BritCits report on adult dependent relatives in 2014. This is not to mention numerous blogs and the 'Love Letters to the Home Office' book, covering similar ground. The effect in each situation is unanimously highlighted as being devastating for those impacted.

The new post-Brexit regime means a dramatic widening of those impacted by the Immigration Rules and the interference of the ability of the State to interfere in British families' lives from the tens of thousands to the hundreds of thousands (around 1.3 million British citizens live in Europe according to UN data), and indeed we are already hearing from some of those affected – who in many cases, as with British citizens and non-EU partners before the 2012 rule change, never expected in their lives to have to deal with the UK immigration system.

Thirdly, whilst never perfect in implementation, Article 8 of the European Convention on Human Rights (the right to family and private life), did provide some relief for those affected under certain, exceptional circumstances. This was always a qualified right and the British government's position has always been that it can interfere in the right to family life as it sees fit, which it could be argued makes such a right meaningless. However, it was possible to challenge such threats to family life through the courts and in some cases, the courts provided some relief. We now fear that even this fig-leaf of a protection is under threat.

Conclusion

We echo the position of the British Association of Social Workers that *'the current Human Rights Act provides a bulwark against inappropriate or lawful use of executive powers by the Government which might negatively impact on the most vulnerable'*. Or to quote Montesquieu, *'Power ought to serve as a check to power'*.

The interference by the Government in the family lives of British citizens in the interests of pursuing a misconstrued goal of reducing immigration regardless of human, social, moral and economic damage provides a perfect case study of why Government power in such matters needs to be checked, and the counterbalancing protection of the Human Rights Act and its derivation provided this, somewhat imperfectly, but nonetheless to a better degree than nothing at all.

Our concern now is that radically replacing the HRA will simply provide a licence for Government to run roughshod over the lives of everyone, including the most vulnerable, be they citizens or not, and we call for the review to recommend no suggested changes to the way that the Human Rights Act balances executive power.