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Lord Rosser
House of Lords
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23 February 2016

Dear Lord Rosser,

IMMIGRATION BILL: FOLLOW UP POINTS FROM COMMITTEE CONSIDERATION ON 1 FEBRUARY 2016

Following our consideration of the Immigration Bill on 1 February, I am writing to answer a number of outstanding points made by you and other colleagues.

Immigration officer training and guidance

In response to Lord Kennedy of Southwark's comments, I agreed to write regarding what training immigration officers would receive before they will be able to exercise the power under clauses 22 and 23 to seize and pass on evidence they encounter in relation to an offence in order to prevent it from being concealed, lost, altered or destroyed.

Immigration officers working within Immigration Enforcement already undertake extensive training in handling and seizure of evidence as part of their basic arrest-course training with the College of Policing, and undergo a subsequent period of supervision and mentoring for 15-18 months. All enforcement officers also receive a yearly technical refresher on powers and guidance. Officers in immigration Criminal Investigation teams already utilise seizure powers under section 19 of the Police and Criminal Evidence Act 1984 (PACE) and undertake Professionalising Investigation Programme (PIP) level 1 training which is accredited by the College of Policing. All officers are required to have training in PACE and undertake further training to get designated in this role. Some officers working in operational enforcement teams have undergone this training and so will be able to use the power set out in clause 22. For existing officers who are not trained to PIP level 1, we will develop a specific one day package to cover the new seizure power to enhance the evidence-handling training they have already received. For new entrants we will incorporate the training into their basic arrest training with the College of Policing.

Definition of nationality documents

During the course of the debate on amendments to clauses 25 and 29, I explained why nationality documents were defined as documents which "might" establish a person's identity, nationality, or citizenship, or indicate the place from which a person has travelled to the United Kingdom or to which a person is proposing to go, as opposed to ones actually "showing" the individual's identity, nationality etc. An example of this could be what appears to be a boarding pass in Arabic which would need to be taken away to be translated, or a receipt from a travel agent, which would need to be

taken away for further checks to see in which country that travel agent operates. It may also be helpful if I clarify that this definition was modelled on one used at paragraph 25A(9) of Schedule 2 to the Immigration Act 1971.

Complaints procedure

Lord Kennedy asked about complaints procedures. Any individual, dissatisfied by the service which they have received from Border Force, Immigration Enforcement, or UK Visas and Immigration may lodge their complaint with the Home Office, or directly with the area to which their complaint relates. Each area has its own internal procedures for handling complaints. Advice on how to make a complaint is available via leaflets available at air or sea ports, the Gov.uk website or through immigration advice centres, legal representatives or Members of Parliament (MPs). If the individual remains unhappy with the outcome of their complaint they may request, via their MP, that the Parliamentary Health Service Ombudsman considers their complaint. Serious complaints about the use of enforcement powers by immigration officers and officials can also be referred to the Independent Police Complaints Commission, the Police Ombudsman for Northern Ireland, or in Scotland, to the Police Investigations and Review Commissioner, for their consideration.

Furthermore, complaints relating to alleged serious misconduct by detention staff and/or escorts can be considered by the Home Office Professional Standards Unit who will investigate those complaints and refer criminal allegations to the police. Detainees who are not satisfied with the way in which their complaint (either a service delivery or misconduct complaint) has been handled may ask for it to be reviewed by the independent Prisons and Probation Ombudsman. Complaints relating to healthcare in England are handled under separate NHS complaints procedures and different timescales for investigation and response will apply. The appeal process will be via the independent Parliamentary and Health Service Ombudsman (PHSO).

Notwithstanding the above, given the relatively low numbers of complaints it is better for complainants and for the Home Office for complaints to be handled by these bodies, who have the expertise in the particular function being called into question.

Return of documents to issuing authorities

I said I would take away and consider the point mentioned by Lord Paddick regarding the potential risk that returning a document to an issuing authority might create for a person seeking asylum. I can assure you that we would not normally make contact with an Embassy until an individual's asylum claim had been determined. We are always mindful of our international obligations and we would not provide any information about the fact the individual had claimed asylum in the UK, the reasons for refusal, or any information that would reveal those things or put the individual and/or their family at risk.

Restriction on Studies

I undertook to write to set out more fully our intention behind the restriction on studies contained as an option for a bail condition in Schedule 7. An ability to restrict studies as a condition of bail is not new, and there is an ability to restrict studies as a condition of bail under current legislation.

During the Committee Stage in the House of Commons, my Rt Hon Friend the Immigration Minister put on the record how the condition would work, "Like the other conditions listed, a restriction on study is only an option that is available; it is not a mandatory requirement and can be imposed as appropriate.

The power is not, as was suggested, about trying to deny education. If a child can lawfully access education services, we will not seek to disrupt that by using restrictions under the bail power to place a prohibition on them attending. We also do not intend to impose through the use of the power a blanket ban on asylum seekers accessing education. Where the power could have utility, however, is on specifying the place at which someone can study, for example. That would mean knowing where they are and saying that they are permitted to study, but only at a particular institution. For example, the wrap-around for a particular family group may be most appropriately provided for by conditions that are allied to a child going to a particular school. I point to it in that way. We have other regimes where conditions can be attached to study that are more towards that stance and approach.”

Presently the power to restrict an individual’s access to education is used to address particular concerns or objectives rather than denying education wholesale. A useful example of current use is in national security cases, where a restriction on studying may be imposed as part of a package of conditions seeking to manage with whom the individual is able to associate, or what access the individual can have to the internet or computers. The important point is, as I and the Immigration Minister have said, we do not intend to impose a blanket ban on asylum seekers accessing education using this provision. It will be used on a case by case basis, and only when proportionate.

Pregnant women in immigration detention

Lord Alton of Liverpool asked for information on the number of pregnant women held in the immigration detention estate. This is not part of our published statistics or information.

We will not necessarily be aware that a woman is pregnant unless she chooses to make this known to us and a woman may not know herself that she is pregnant when she enters detention. In addition it may not always be appropriate for healthcare professionals to disclose information that the patient has asked not to be disclosed.

However, I can disclose that, to the best of our knowledge, as of 8 February there were fewer than four women detained in immigration removal centres who had disclosed their pregnancy out of a female population of c.400. This information does not form part of published statistics and is not subject to the detailed checks that apply for National Statistics publications. It is provisional and subject to change.

The internal Home Office review of the detention estate

You and other members of the House asked about the Home Office’s internal review on detention. As the Written Ministerial Statement on 14 January 2016 made clear, Home Office Ministers are considering a range of options about the future size and shape of the detention estate, and how this relates to the Government’s immigration policies more generally. The Government will say more about its conclusions in due course.

Police Registration

You asked about police registration. Information on the numbers of people required to register with the police is not routinely collated. From the information available, I can say that 22,021 people granted leave to remain in the UK in 2014 had the police registration condition attached to their leave. Comparable figures are not currently available for those who applied for visas, but according to the published 3rd quarter 2015 Immigration Statistics, excluding visitors or those in transit, 212,614 visas were granted in 2014 to applicants from the countries whose nationals are subject to the police registration requirement. This figure does not reflect the fact that some of those people will have been

exempt from the requirement due for example to their age, the category and length of leave given, or possibly holding dual nationality where the other nationality is exempt.

Information on who has actually registered is collected by the individual police forces around the UK. For illustrative purposes I can advise that the Overseas Visitors Records Office (OVRO), which covers the London Metropolitan Police area and handles the largest volumes of registrants, particularly students, registered 23,858 people in 2014.

As police registration is attached as a condition of a person's leave, if that individual knowingly fails to register, it is a breach of their conditions and an offence, which can attract a fine of up to £5,000 and/or up to six months imprisonment. Failure to comply with the conditions of leave will also be taken into account if the person makes a further immigration application, for example if applying for a new visa or for further leave to remain. In such cases the failure to comply with the police registration condition could lead to an application being refused under the Immigration Rules. I cannot say how many people have had applications refused directly on the basis of a failure to register with the police; the immigration statistics do not record this. However, the number of extensions of leave to remain refused overall in 2014 for migrants from the countries concerned and excluding dependants, totalled 3,530, compared to a total of 57,707, which were granted. Given those figures I would not envisage compliance with police registration as being particularly problematic.

Baroness Hamwee asked about why the administration of the police registration requirement is separate from UK Visas and Immigration administration. In terms of the administration of the scheme, I acknowledge that some of the information collected through the police registration scheme will also be captured through UK Visas and Immigration's application process, which has moved increasingly online. While that has clear advantages and has provided a more efficient way of providing and recording data for wider immigration purposes, we recognise that there are also advantages to the police and law enforcement authorities having access to the data collected through the police registration process, including required updates to people's personal data such as changes of address or change of name. The police continue to work and engage with stakeholders to manage peak flows in registrations and minimise any inconvenience for those required to register.

I look forward to the continuing debate. Copies of this letter go to all peers who have spoken during Committee consideration of the Bill, as well as to the House Library.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'L' followed by a dot and a flourish.

THE LORD KEEN OF ELIE QC