

Mike Lyne
Section 5
Immigration & Nationality Policy Directorate
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2 December 1999

Dear Mr Lyne,

RE: FINANCIAL BONDS FOR VISITORS

We are grateful for the opportunity to comment on the Consultative Document.

As you may be aware the Muslim Council of Britain is an umbrella body of mosques, Muslim associations and institutions in the UK. It is a broad-based, representative organisation of Muslims in Britain, accommodating and reflecting the variety of social and cultural backgrounds and outlooks of the community. It was set up in November 1997 following a nation-wide process of consultation over three years. Presently, the MCB has nearly three hundred national, regional and local Muslim organisations, institutions and mosques affiliated to it. Its membership is growing by the day.

The aims of the Muslim Council of Britain are:

- To promote co-operation, consensus and unity on Muslim affairs in the UK.
- To encourage and strengthen all existing efforts being made for the benefit of the Muslim community.
- To work for more enlightened appreciation of Islam and Muslims in the wider society.
- To establish a position for the Muslim community within Britain that is fair and based on due rights.
- To work for the eradication of disadvantages and forms of discrimination faced by Muslims.
- To foster better community relations and work for the good of society as a whole.

The Muslim Council of Britain (MCB) is opposed to the “Bond Scheme for Visitors”. We believe that it will create an unjust and unfair two tier system which has the potential of giving advantage to the well off “sponsors” in the United Kingdom. We believe that as Muslims in Britain are probably the most economically deprived

section of the society, the “Bond Scheme for Visitors” is bound to have an adverse impact on Muslims. We are of the firm view that the Scheme is unnecessary and that it could lead to a great deal of hardship. It is our considered view that if Entry Clearance Officers are properly trained in applying correct legal requirements and also in relevant cultural values and sensitivities, the perceived need for the Scheme will disappear.

In the context of legal requirements we should like to emphasise that it is settled law that although the burden of satisfying an Entry Clearance Officer rests upon an applicant, the standard to which he must discharge that burden of proof is on a reasonable balance of probabilities. Therefore even where an Entry Clearance Officer has substantial doubts that an applicant may not return to his/her own country, he must still grant the application if all other requirements are fulfilled to the same standard unless his doubts outweigh and outnumber the probability that the applicant will return/leave. The test of balance of probabilities is long established in the English Legal System and it is satisfied if an applicant can prove his case on a 51/49 ratio. Our experience has shown and your consultative document proves it by

saying that the Scheme may only be used where “there is reason to doubt that someone who has applied for a visa visit to come to the UK to visit their family intends to return to their own country” (Paragraph 1.2 of the document) that the Entry Clearance Officers use the incorrect standard of proof when dealing with applications for visits. Your consultative document will reinforce application of the higher standard of proof than required. In this context we would like to point out that it was perhaps for this reason that a very large proportion of appeals against the decisions of Entry Clearance Officers in visit cases used to be successful when there was a right of appeal against such decisions.

The Muslim Council of Britain notes that the “Government is committed to ensuring that the bond scheme does not have a discriminatory effect”. However it is far from satisfied that it will not have such effect particularly with regard to Muslims who as statistics show suffer from the worst unemployment in Britain. We also believe that the manner in which the Scheme is proposed to be implemented ie, a cash deposit and an obligation on the visitor to confirm their departure when the visit is over before sponsors are repaid the bond, is fraught with grave difficulties for many Muslims who are not able to read or write English. We foresee that many sponsors will forfeit their bonds because they will be unaware of bureaucratic and cumbersome procedures that they are required to follow at the time of or before their visitor departs.

The Muslim Council of Britain notes with great concern that the pilot study for the Scheme is proposed to be run in the Sub-Continent. The MCB should like to point out that the history of immigration control is riddled with grave injustices suffered by people from the Sub-Continent in the past in their quest for re-unification of families in the UK. They were the main victims of the Primary Purpose Rule and before that the sole victims of the “Discrepancies in Statements in establishing Relationships”. We fear that yet again they are being targeted for an oppressive and unfair regime.

That a large section of such people are Muslims is relevant to our fears and apprehensions. We do not see any justification for not running the pilot study in countries like Australia, Russia and China to name just a few. We fear that there is an underlying assumption in the Consultative Document that people from the Sub-Continent are somehow less trust worthy and/or that they are more likely to abuse immigration control. Neither assumption is based on fact. Both are rooted in the evil of racism that this Government is so fully committed to eradicating.

We would ask the Government to seriously consider our opposition to the Scheme. We would like the Government to fulfil its pledge to immediately put in place a fair and fast system of appeals against decisions to refuse applications from family visitors. We would also urge the Government to carry out a comprehensive programme of training the Entry Clearance Officers in issues of cultural diversity and on the correct standard of proof applicable in visit cases.

Yours sincerely,

Iqbal Sacranie
SECRETARY GENERAL