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# Commons Library analysis of Marriage and Civil Partnership (Minimum Age) Bill 2021-22

## Summary

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# Summary

## The Bill

The [Marriage and Civil Partnership \(Minimum Age\) Bill](#) (the Bill) is a Private Member's Bill sponsored by Pauline Latham (Conservative). [Explanatory Notes](#) have been prepared by the Ministry of Justice and Home Office on behalf of Pauline Latham. Second Reading of the Bill is due to take place on 19 November 2021.

The Bill would raise to 18 the minimum age for marriage and civil partnership in England and Wales. The [Explanatory Notes](#) state how this would affect marriages and civil partnerships which take place outside of England and Wales:

The anticipated effect of this change on the common law will also mean that any marriages which take place overseas, or in Scotland or Northern Ireland, involving under 18s where one of the parties is domiciled in England and Wales, will not be legally recognised in England and Wales. This change to recognition will also apply to civil partnerships.

The Bill would also expand the existing criminal law on forced marriage to make it illegal for a person to arrange the marriage of a person under the age of 18 in England and Wales. The existing law only applies if a form of coercion is used or if the victim lacks capacity under the Mental Capacity Act 2005.

## Background

### Minimum age for marriage and civil partnership

In England and Wales, the minimum age for marriage or civil partnership without parental or other third-party consent (as defined), or judicial consent, is 18. A person who is 16 or 17 may marry or form a civil partnership only with such consent (unless the 16- or 17-year-old is a widow or widower or surviving civil partner). A marriage or civil partnership is void if either of the parties is under the age of sixteen.

In 2018, the most recent year for which data is available, **147** 16-17-year-olds got married to a member of the opposite sex. This figure represents 0.06% of all marriages that took place in England and Wales in 2018. It was the lowest number of marriages recorded in this age group to date. Marriages of same-sex couples are not reported with a detailed age breakdown, and neither are civil partnerships.

UNICEF considers that child marriage is a violation of human rights. United Nations [Sustainable Development Goal 5.3](#), agreed to by world leaders, is,

“Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation”. The [Explanatory Notes published with the Bill](#) note that “the UN Committee on the Rights of the Child recommends that there should be no legal way for anyone to marry before they turn 18, even if there is parental consent”. In 2016, the Committee recommended to the UK that it raise the minimum age to 18.

Several previous Private Members’ Bills have attempted to raise the minimum age of consent for marriage or civil partnership to 18, and, in some cases, to criminalise child marriage or civil partnership, but none were successful.

The Government has [said it will support](#) raising the age of marriage and civil partnership in England and Wales from 16 to 18 years, when an appropriate legislative vehicle becomes available.

### Forced marriage

[Government guidance](#) on recognising a forced marriage states:

A forced marriage is where one or both people do not (or in cases of people with learning disabilities or reduced capacity, cannot) consent to the marriage as they are pressurised, or abuse is used, to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights.

The criminal law on forced marriage (as it applies in England and Wales) is set out in [section 121 of the Anti-social Behaviour, Crime and Policing Act 2014](#).

Section 121 makes it an offence for a person to use violence, threats, or any other form of coercion for the purpose of causing another person to enter into a marriage, and they believe (or ought reasonably to believe) that their conduct may cause the other person to enter into the marriage without free and full consent.

It is also an offence to pursue conduct for the purpose of causing a victim who lacks capacity (by reference to the Mental Capacity Act 2005) to consent to marriage, whether or not that conduct amounts to violence, threats or any other form of coercion.

For these purposes ‘marriage’ is defined as any religious or civil ceremony of marriage (whether or not legally binding).

In its [Tackling violence against women and girls strategy](#) the Government set out its commitment to “the goal of ending child marriage in this country”. It also acknowledged “the need to signal to other countries that child marriage is something which needs to be tackled”.

# 1 Marriage and civil partnership: minimum age

## 1.1 Current law

In England and Wales, the minimum age for marriage or civil partnership without parental or other third-party consent (as defined), or judicial consent, is 18. A person who is 16 or 17 may marry or form a civil partnership only with parental, third-party or judicial consent (unless the 16- or 17-year-old is a widow or widower or surviving civil partner).<sup>1</sup>

A marriage or civil partnership is void if either of the parties is under the age of sixteen.<sup>2</sup>

The position differs in Scotland where the minimum age for marriage or civil partnership is also 16,<sup>3</sup> but there is no requirement for parental or other consent for the marriage of 16- and 17-year-olds.<sup>4</sup> A marriage or civil partnership is void if either of the parties is under the age of sixteen.<sup>5</sup>

## 1.2 How many 16- and 17-year-olds get married?

147 people aged 16 or 17 married someone of the opposite sex in 2018

The number of 16- and 17-year-olds getting married in England and Wales is not high. The Office for National Statistics (ONS) publishes data on the number of 16-17-year-olds entering opposite-sex marriages. Marriages of same-sex couples are not reported with a detailed age breakdown, and neither are civil partnerships.

In 2018, the most recent year for which data is available, **147** 16-17-year-olds got married to a member of the opposite sex.<sup>6</sup> This figure represents 0.06% of

<sup>1</sup> [Marriage Act 1949 section 3](#), as amended, [Civil Partnership Act 2004 section 4](#)

<sup>2</sup> [Marriage Act 1949 section 2](#), Civil Partnership Act 2004 [sections 3](#) and [49](#)

<sup>3</sup> [Marriage \(Scotland\) Act 1977 section 1](#), [Civil Partnership Act 2004 section 86](#)

<sup>4</sup> National Records of Scotland, [What Was and Is The Minimum Age For Marriage in Scotland?](#) [accessed 16 November 2021]

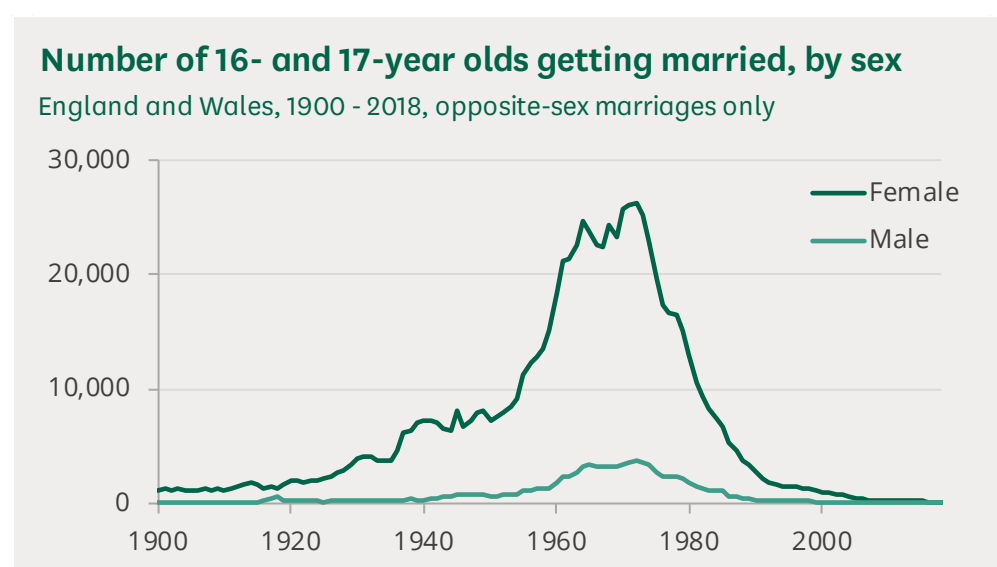
<sup>5</sup> [Marriage \(Scotland\) Act 1977 section 1](#), Civil Partnership Act 2004 [sections 86](#) and [123](#)

<sup>6</sup> This figure relates to the number of individual people aged 16 or 17 who got married. The Explanatory Notes for the Bill puts the number of marriages where one or both parties were aged 16-17 at 134 in 2018. The number is different because it counts marriages rather than people; in some cases, two 16-17-year-olds will marry each other. See [Marriage and Civil Partnership \(Minimum Age\) Bill: Explanatory notes](#), 16 November 2021

all marriages that took place in England and Wales in 2018. It was the lowest number of marriages recorded in this age group to date.

The majority of 16-17-year-olds who marry are female. In 2018, 119 of the 16-17-year-olds getting married were female while 28 were male. Over the last five years, an average of 79% of all 16-17-year-olds getting married have been female.

The chart below shows trends in the number of 16-17-year-olds getting married since 1900. Marriages of 16-17-year-olds began to increase in the 1920s, rising sharply in the late 1950s and peaking in 1972, when 29,935 such marriages took place. 16-17-year-olds getting married made up 7% of all marriages in 1972. Throughout this period, the majority of people marrying at 16-17 were female.



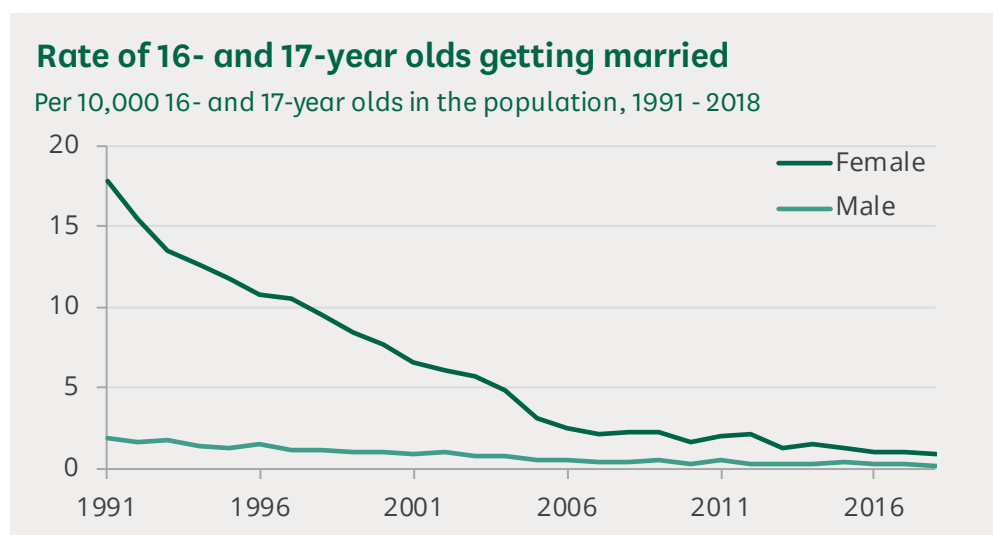
Source: ONS, [Marriages in England and Wales](#), 2018 dataset, Tables 3 and 4

Notes: In a very small proportion of cases, age is not recorded for people marrying. The proportion was around 3% in 1900 and had fallen to 0.02% by 2018.

The total number of marriages taking place at all ages also peaked in 1972, and has fallen by 44.9% since then. The number of marriages of 16-17 year olds has decreased by more than average – the number marrying in 2018 is 99.5% lower than in 1972.

It is also possible to look at the rate of 16-17-year-olds getting married relative to the population of people in that age group. The chart below shows the trend in the rate since 1991.

In 2018, around 0.9 female 16-17-year-olds got married for every 10,000 16-17-year-olds in the population. This is down from a rate of around 17.8 per 10,000 in 1991. In 2018, the rate for male 16-17-year-olds was around 0.2, down from around 1.9 in 1991.



Source: ONS, [Marriages in England and Wales](#), 2018 dataset, Tables 3 and 4; ONS, Mid-year population estimates via [www.nomisweb.co.uk](http://www.nomisweb.co.uk)

## 1.3

# Child marriage in an international context

## UNICEF

UNICEF uses the term ‘child marriage’ to refer to both formal marriages and informal unions in which a girl or boy lives with a partner as if married before the age of 18.<sup>7</sup> It considers that child marriage is a violation of human rights, regardless of sex:

Child marriage often compromises a girl’s development by resulting in early pregnancy and social isolation, interrupting her schooling, limiting her opportunities for career and vocational advancement and placing her at increased risk of domestic violence. Although the impact on child grooms has not been extensively studied, marriage may similarly place boys in an adult role for which they are unprepared, and may place economic pressures on them and curtail their opportunities for further education or career advancement.<sup>8</sup>

[UNICEF notes](#) that the issue of child marriage is addressed in a number of international conventions and agreements:

The Convention on the Elimination of All Forms of Discrimination against Women, for example, covers the right to protection from child marriage in article 16, which states: “The betrothal and the marriage of a child shall

<sup>7</sup> UNICEF, [Child marriage. Notes on the data](#), October 2021 [accessed 16 November 2021]

<sup>8</sup> UNICEF, [Child marriage](#), October 2021 [accessed 16 November 2021]



have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage....” The right to ‘free and full’ consent to marriage is recognized in the Universal Declaration of Human Rights, which says that consent cannot be ‘free and full’ when one of the parties involved is not sufficiently mature to make an informed decision about a life partner. Although marriage is not mentioned directly in the Convention on the Rights of the Child, child marriage is linked to other rights – such as the right to freedom of expression, the right to protection from all forms of abuse, and the right to be protected from harmful traditional practices – and is frequently addressed by the Committee on the Rights of the Child. Other international agreements related to child marriage are the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa.<sup>9</sup>

## United Nations

In 2015, world leaders agreed to seventeen Global Goals (officially known as the Sustainable Development Goals or SDGs).<sup>10</sup>

United Nations [Sustainable Development Goal 5.3](#) is:

Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.<sup>11</sup>

The Explanatory Notes published with the Marriage and Civil Partnership (Minimum Age) Bill note that “the UN Committee on the Rights of the Child recommends that there should be no legal way for anyone to marry before they turn 18, even if there is parental consent”.<sup>12</sup> In 2016, the Committee recommended to the UK that it raise the minimum age to 18.<sup>13</sup>

## 1.4 Government position

In July 2021, the Ministry of Justice answered a written Parliamentary question from Jim Shannon (Democratic Unionist Party) asking if the Secretary of State for Justice would hold discussions with Cabinet colleagues on increasing the legal age of marriage to 18 years old. The response indicated the Government’s support, in principle, for changing the law:

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<sup>9</sup> Ibid

<sup>10</sup> [The Global Goals](#) [accessed 16 November 2021]

<sup>11</sup> Sustainable Development Goals, [Goal 5: Achieve gender equality and empower all women and girls](#) [accessed 16 November 2021]

<sup>12</sup> [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill, para 7](#)

<sup>13</sup> Ibid

The Government in principle supports raising the legal age of marriage to 18 years of age by removing the ability to marry at age 16 or 17 with parental consent. We will do so when a suitable legislative opportunity arises. In that context, the Marriage and Civil Partnership (Minimum Age) Bill was introduced by the hon. member for Bromsgrove on 16 June as a Private Members' Bill. The hon. member for Mid Derbyshire is now sponsoring that Bill and Ministers will meet with her shortly to discuss its provisions. The Government will make its further intentions clear in due course.<sup>14</sup>

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<sup>14</sup> [PQ 24179 \[on Marriage: Age\], 7 July 2021](#)

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## 2 Forced marriage

### 2.1 Current law

[Government guidance](#) on recognising a forced marriage states:

A forced marriage is where one or both people do not (or in cases of people with learning disabilities or reduced capacity, cannot) consent to the marriage as they are pressurised, or abuse is used, to force them to do so. It is recognised in the UK as a form of domestic or child abuse and a serious abuse of human rights.<sup>15</sup>

The criminal law on forced marriage (as it applies in England and Wales) is set out in [section 121 of the Anti-social Behaviour, Crime and Policing Act 2014](#).<sup>16</sup>

Under s121(1), a person commits an offence if:

- they use violence, threats or any form of coercion for the purpose of causing another person to enter into a marriage, and
- they believe (or ought reasonably to believe) that the conduct may cause the other person to enter into the marriage without free and full consent.

If the victim lacks capacity to consent to marriage, then s121(2) provides that the offence under s121(1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form of coercion). For these purposes the question of whether someone lacks capacity is determined by reference to the [Mental Capacity Act 2005](#).<sup>17</sup> The Delegated Powers Memorandum notes that the 2005 Act “does not apply to children solely by virtue of their being children”.<sup>18</sup>

Under s121(3) a person commits an offence if:

- they practise any form of deception with the intention of causing another person to leave the UK, and

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<sup>15</sup> Gov.uk, [Guidance – Forced Marriage](#), last updated May 2021

<sup>16</sup> Section 121 only applies to England and Wales. Section 122 sets out an equivalent offence for Scotland. The Bill only relates to section 121.

<sup>17</sup> s121(5)

<sup>18</sup> [Marriage and Civil Partnership \(Minimum Age\) Bill Delegated Powers Memorandum](#), para 3

- they intend the other person to be subjected to conduct outside the UK that is an offence under subsection 121(1), or would be such an offence if the victim were in England or Wales.

For the purposes of section 121 ‘marriage’ is defined as any religious or civil ceremony of marriage (whether or not legally binding).

An offence will only be committed under section 121 if, at the time of the conduct or deception:

- the defendant or the victim or both of them are in England and Wales
- neither the defendant nor the victim is in England or Wales but at least one of them is habitually resident there, or
- neither the defendant nor the victim is in the UK but at least one of them is a UK national.

The offence can be tried in either the magistrates’ court or the Crown Court. The maximum sentence in the magistrates’ court is six months imprisonment and/or a fine, and seven years imprisonment in the Crown Court.

## 2.2

## Statistics

[Statistics](#) on forced marriage are published by the Forced Marriage Unit (FMU).<sup>19</sup> The FMU is a joint Home Office and Foreign, Commonwealth & Development Office unit established in 2005 to lead on the Government’s forced marriage policy, outreach and casework.

In 2020, the FMU gave advice or support in 759 cases related to a possible forced marriage and/or possible female genital mutilation (FGM). Of these cases, 750 solely related to forced marriage, three to both forced marriage and FGM, and six solely to FGM.

The FMU notes that the overall case number represents a 44% decrease on the average number of cases (1,359) received annually between 2011 and 2019. It says this is thought to be “largely attributable to reasons derived from the coronavirus pandemic, such as restrictions on weddings and overseas travel”.<sup>20</sup>

The FMU set out the following additional information on the cases it dealt with in 2020:

Of the cases that the FMU provided advice or support to in 2020:

- 199 cases (26%) involved victims below 18 years of age

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<sup>19</sup> Gov.uk, [Official Statistics: Forced Marriage Unit statistics 2020](#), July 2021

<sup>20</sup> Ibid

- 278 cases (37%) involved victims aged 18-25
- 66 cases (9%) involved victims with mental capacity concerns
- 603 cases (79%) involved female victims, and 156 cases (21%) involved male victims

These proportions are broadly in line with case numbers from recent years.<sup>21</sup>

The FMU states that of the cases it dealt with in 2020, 15% involved victims aged 15 and under, 11% were 16-17 years old, and 22% were between the ages of 18 and 21. It notes:

Cases concerning young children often involve the ‘promise’ of a future marriage (betrothal), or the younger sibling of someone at a direct risk, rather than an imminent marriage. The case numbers also include FGM, which often involves child victims.<sup>22</sup>

## 2.3 Government policy

In July 2021 the Government published its [Tackling violence against women and girls strategy](#), which sets out a range of actions aimed at tackling acts of violence or abuse that disproportionately affect women and girls.<sup>23</sup>

The strategy identifies forced marriage as one such issue, and states that the Government “remains committed to the goal of ending child marriage in this country”. It also acknowledges “the need to signal to other countries that child marriage is something which needs to be tackled”. The strategy goes on:

Child marriage and having children too early in life can deprive children of important life chances, which is why the Government will support raising the age of marriage and civil partnership in England and Wales from 16 to 18, when an appropriate legislative vehicle becomes available, to help stamp out marriage of minors. The age of 18 is widely recognised as the age at which one becomes an adult, and at which full citizenship rights should be gained.<sup>24</sup>

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<sup>21</sup> Ibid

<sup>22</sup> Ibid

<sup>23</sup> HM Government, [Tackling Violence Against Women and Girls](#), July 2021

<sup>24</sup> Ibid, p42

## 3

## Previous Private Members' Bills

### 3.1 Marriage and Civil Partnership (Minimum Age) Bill [HL] 2016-17

On 25 May 2016, Baroness Tonge (Independent Liberal Democrat) introduced the [Marriage and Civil Partnership \(Minimum Age\) Bill \[HL\] 2016-17](#).<sup>25</sup> The long title of the Bill was to “raise the minimum age of consent to marriage or civil partnership to eighteen; create an offence of causing a person under the age of eighteen to enter into a marriage or civil partnership; and for connected purposes”.

The Second Reading debate took place on 21 October 2016.<sup>26</sup> Baroness Tonge set out her reasons for introducing the Bill:

... girls in particular lose out on educational opportunity, which can seldom be regained. Parental consent in a family where parents are strict and domineering could mean parental insistence and the young person being forced to go along with the decision. I am well aware of the sensitivities around not wanting to offend different cultural groups in this country, but the Bill will benefit their children’s future and that of children who are indigenous here.

Is it really wise in any case to be married at 16, with or without consent? ... At 16, young people can be sexually active, but that no longer means that they must commit to the first person they have sex with. Marriage is a legally binding process and very expensive to reverse should the great love of youth be lost.<sup>27</sup>

Baroness Uddin (Non-Affiliated) supported the Bill:

My Lords, each year, globally, 15 million girls are married under the age of 18. This all too frequently signals the end of their education, it risks early pregnancy and childbirth and it certainly seriously curtails their personal development and potential life chances. Child marriage looks the same no matter where in the world it happens and in the UK, like elsewhere, it perpetuates cycles of poverty, oppression and inequality. A change in the law would provide real protection for our children and empower them to

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<sup>25</sup> [HL Bill 17 of 2016-17](#)

<sup>26</sup> [HL Deb 21 October 2016 cc2563-2572](#)

<sup>27</sup> [HL Deb 21 October 2016 c2564](#)

make their own choices when they are physically and emotionally mature enough to do so, so I support my noble friend.<sup>28</sup>

Replying for the Government, Baroness Goldie summarised the Government's position, and the reason for not considering this Bill to be an effective way of preventing abuse:

I conclude by saying that there can be no doubt that the Government understand, share and take very seriously the noble Baroness's concerns. No one should ever tolerate the abuse which she seeks to eradicate, and it is right that the UK Government should continue their work to bring this to an end, both here and around the world. However, the Government do not see sufficient evidence that the measures in the Bill would be effective in preventing abuse, bringing perpetrators to justice or offering additional protection. It would be disproportionate to prevent people exercising the freedom to marry or form civil partnerships in England and Wales at 16 or 17 with their full, free and informed consent. Their numbers, already small, continue to decline. People are now marrying much later, not because of the law but because of changes over the decades in society and in the educational, employment and economic opportunities open to them. The Bill would not reach those vulnerable people whom others have shielded from social change and who have been denied the opportunities that are rightly theirs, and it would not achieve a just, proportionate or effective means of enabling us to prevent or remedy the harmful impact on people's lives that both the Government and your Lordships will not hesitate to condemn.<sup>29</sup>

A [Lords Library briefing paper](#) on this Bill includes background information.<sup>30</sup>

The Bill completed its passage through the House of Lords but made no further progress.

## 3.2

### Marriage and Civil Partnership (Minimum Age) Bill 2017-19

On 5 September 2018, Pauline Latham (Conservative) introduced the [Marriage and Civil Partnership \(Minimum Age\) Bill 2017-19](#) under the Ten Minute Rule.<sup>31</sup> The purpose of the Bill was to raise the minimum age of consent to marriage or civil partnership to eighteen.<sup>32</sup>

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<sup>28</sup> [HL Deb 21 October 2016 cc2564-5](#)

<sup>29</sup> [HL Deb 21 October 2016 cc2571](#)

<sup>30</sup> [LIF 2016/0056, 18 October 2016](#)

<sup>31</sup> [HC Deb 5 September 2018 cc196-200, Bill 261 of 2017-19](#)

<sup>32</sup> [HC Deb 5 September 2018 c196](#)

At First Reading, Pauline Latham questioned why the Government was not leading the way by increasing the legal age of marriage in this country from 16 to 18, “the recognised age of adulthood”:

Under the United Nations sustainable development goals, states around the world pledged to end by 2030 marriages in which one or both spouses are under 18, but many Commonwealth countries still follow the legal lead of the UK. In Bangladesh, for instance, the official minimum age of matrimony is 18 for women and 21 for men, but a new provision allows child marriage to take place under special circumstances—that is, with parental consent and with permission from the courts. Lobbyists for this provision cited the current UK law as an example of why the legal age of marriage in Bangladesh should be lowered. Changes to laws in the UK reverberate around the world but this is not the only reason that fresh impetus should be given to increasing the minimum age for marriage from 16 to 18. It should be our priority to protect children, and that may mean from themselves as well as from potential dangers from others.<sup>33</sup>

Pauline Latham considered that the requirement for parental consent for 16- and 17-year-olds to marry was not the safeguard it might once have been, “because it opens the door for forced marriages, or at least for pressure to be exerted on young people to marry to fulfil family demands”. She set out why she considered the minimum age should be increased:

Marriage is a major life decision for which children are not emotionally and physically ready. Setting the minimum age of marriage at 18 provides an objective, rather than subjective, standard of maturity, which safeguards a child from being married when they are not physically, mentally or emotionally ready. Many argue that there should be a minimum level of maturity, and free and full consent about whether, whom and when to marry.<sup>34</sup>

Pauline Latham elaborated on the international context:

The international human rights conventions on the rights of women and children say that countries should end the practice of enabling child marriage below 18; thus the UK is violating these same commitments. International law is very specific about who should be allowed to marry. If a country wants to permit exceptions to the minimum marriage age of 18, “mature, capable” children are allowed to marry only “in exceptional circumstances” at age 16 or older, when

“such decisions are made by a judge based on legitimate exceptional grounds defined by law...without deference to culture and tradition.”

By allowing 16-year-olds to marry without consent from a judge, the UK is breaking international law, but that has not stopped the UK from telling other countries to follow the same rules that it is flouting. It is important

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<sup>33</sup> Ibid

<sup>34</sup> [HC Deb 5 September 2018 c197](#)



to realise that the UK has a duty to live by the very standards that it is keen to advocate for in the developing world. It is crucial that, as well as trying to eradicate child marriage around the world, the UK meets international human rights standards at home to end this harmful practice.<sup>35</sup>

Kevin Foster (Conservative) recognised that “getting married at 16 is not the right life choice for many people, particularly if there is any form of coercion, which there should never be in marriage”. However, he set out some observations and concerns about the potential wider implications of the Bill. For example, he queried the impact such a change might have on the age of sexual consent, which is currently 16:

Under this proposal, someone who decided at 16—legally, if we did not change the age of consent—to make the life-changing decision to have children could not get married until they were 18. That would be a bit of an oddity in our law.<sup>36</sup>

This Bill did not make any further progress through Parliament before the end of the session.

### 3.3 Marriage and Civil Partnership (Minimum Age) Bill [HL] 2019-21

On 27 January 2020, Baroness Hussein-Ece (Liberal Democrat) introduced the [Marriage and Civil Partnership \(Minimum Age\) Bill \[HL\] 2019-21](#).<sup>37</sup> The long title of this Bill was to “revoke parental or judicial consent which permits the marriage or civil partnership of a child and to criminalise child marriage or civil partnership under the age of 18; and for connected purposes.

This Bill made no further progress.

### 3.4 Marriage and Civil Partnership (Minimum Age) (No.2) Bill 2019-21

On 6 October 2020, Pauline Latham introduced another Private Member’s Bill under the Ten Minute Rule,<sup>38</sup> the [Marriage and Civil Partnership \(Minimum Age\) \(No.2\) Bill 2019-21](#).<sup>39</sup> The long title of the Bill was to “revoke parental or judicial consent which permits the marriage or civil partnership of a child and

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<sup>35</sup> [HC Deb 5 September 2018 c197](#)

<sup>36</sup> [HC Deb 5 September 2018 c198](#)

<sup>37</sup> [HL Bill 61 of 2019-21](#)

<sup>38</sup> [HC Deb 6 October 2020 cc768-770](#)

<sup>39</sup> [Bill 192 of 2019-21](#)

to criminalise child marriage or civil partnership under the age of 18; and for connected purposes”.

Pauline Latham reiterated her view of why such a Bill was needed:

Following the first Girl Summit in 2014, the Department for International Development allocated up to £39 million to support global efforts to prevent child marriages. By that proactive contribution, the UK recognised that child marriages result in early pregnancy, social isolation, interrupted or stopped education, limited career and vocational opportunities and a risk of increased domestic violence. Why are we allowing the marriage of children in this country when the recognised age of adulthood is 18? The Government have signed two international human rights conventions which demand that signatories end child marriage in their jurisdictions. We are violating those conventions and allowing child sex abuse.

The law allowing marriage with parental consent dates back to 1929, when parents were most concerned about property rights. Since then, our understanding of childhood and marriage has changed significantly. The United Kingdom now requires everyone to be in education or training until the age of 18, and then they are encouraged to pursue a university education. Social aspirations have increased, especially for girls and women...<sup>40</sup>

Pauline Latham considered the UK should set a high standard:

The current law fails to safeguard children in England and Wales, and it undermines the UK’s international efforts to prevent child marriage elsewhere. By abolishing the exception and criminalising child marriage, this Bill would remove an anachronism in marriage law and protect children worldwide, as well as the integrity of the institution of marriage.

We have young people staying in education and training, and they should not be leaving school, education and training to be married, so that they can never have an economic future of independence. They should not be having children too young, and they should not be forced into this situation. At 16, very few young people are able to fight against their parents; by the time they get to 18, there is much more opportunity because they can see a future of going off to university or further training and having some independence.<sup>41</sup>

This Bill did not make any further progress.

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<sup>40</sup> [HC Deb 6 October 2020 cc768-769](#)

<sup>41</sup> [HC Deb 6 October 2020 cc769-770](#)

## 4 The Marriage and Civil Partnership (Minimum Age) Bill 2021-22

### 4.1 The Bill and associated documents

The [Marriage and Civil Partnership \(Minimum Age\) Bill](#) (the Bill) is a Private Member's Bill, introduced on 16 June 2021 as Bill 18 of 2021-22 by Sajid Javid, who came fifth in the ballot for Commons Private Members' Bills for the 2021-22 session. Sajid Javid was subsequently appointed Secretary of State for Health and Social Care and the Bill is now sponsored by Pauline Latham. Second Reading of the Bill is due to take place on 19 November 2021.

Associated documents have also been published:

- [Explanatory Notes](#) prepared by the Ministry of Justice and Home Office on behalf of Pauline Latham;<sup>42</sup>
- [Delegated Powers Memorandum](#) prepared by the Ministry of Justice with the agreement of Pauline Latham;<sup>43</sup>
- [Impact Assessment](#) from the Ministry of Justice and Home Office.<sup>44</sup>

The Bill would amend other legislation including the Marriage Act 1949, the Anti-social Behaviour, Crime and Policing Act 2014, and the Civil Partnership Act 2004.

### 4.2 Bill provisions

#### Increase in minimum age for marriage and civil partnership

**Clause 1** and **Clause 3** would raise to eighteen the minimum age for marriage and civil partnership in England and Wales (by amending the relevant provisions in the Marriage Act 1949<sup>45</sup> and the Civil Partnership Act 2004).<sup>46</sup> It would no longer be possible for anyone to consent to the marriage or civil partnership of a 16- or 17-year-old. The validity of any marriages or civil

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<sup>42</sup> [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill](#)

<sup>43</sup> Ministry of Justice, [Marriage and Civil Partnership \(Minimum Age\) Bill Delegated Powers Memorandum](#), 11 November 2021

<sup>44</sup> [IA: MoJ017/2021](#), 15 November 2021

<sup>45</sup> Section 2 would be amended, and section 3 would be omitted

<sup>46</sup> Section 3 would be amended and section 4 would be omitted

partnerships entered before the Bill comes into force would not be affected (**Clause 8**).<sup>47</sup>

The Explanatory Notes set out the consequences this change might have:

The Bill would act as a further obstacle to those seeking to take children abroad to marry. It will also offer clarity to professionals such as teachers and social workers who are uncertain whether they should report children travelling abroad to marry.

The changes in the law would mean there will be one less obstacle to children completing their education. Children will also have more time to grow and mature before entering marriage or civil partnership; which is a potentially life-long commitment with significant legal and financial consequences.<sup>48</sup>

## Offence of conduct relating to marriage of persons under 18

**Clause 2** of the Bill would extend the existing provisions of section 121 of the Anti-social Behaviour, Crime and Policing Act 2014 to cover conduct relating to the marriage of children aged under 18. Paragraphs 23 to 29 of the [Explanatory Notes](#) set out full background.

The key changes set out in clause 2 are as follows:

- Subsection (2) would make it an offence for a person to carry out any conduct for the purpose of causing a child to enter into a marriage before the child's eighteenth birthday (whether or not the conduct amounts to violence, threats or any other form of coercion).
- Subsection (3) would extend the existing section 121(3) offence on deception to cover deception relating to the proposed new offence in subsection (2).
- Subsection (7) would provide that no offence is committed where the person's conduct was for the purpose of causing a child aged 16 or 17 to enter into a marriage in Northern Ireland or Scotland, where it will still be possible for children of that age to marry in accordance with the relevant legislation in those jurisdictions.

## Civil partnerships etc registered outside England and Wales

**Clause 4** would further amend the Civil Partnership Act 2004<sup>49</sup> to provide that where two people register as civil partners in Scotland or Northern Ireland, the partnership would be void if, at time of registration:

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<sup>47</sup> [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill, para 2](#)

<sup>48</sup> [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill, paras 8 and 9](#)

<sup>49</sup> Sections 54 and 217

- one of the two people was domiciled in England and Wales and
- one of the two people was under 18.

In Northern Ireland, the conversion of a marriage into a civil partnership would be void if, when the marriage was solemnised, one of the parties was domiciled in England and Wales and one was under 18.

It is not entirely clear how these provisions would affect civil partnerships and conversions if **both** parties were domiciled in England and Wales and under the age of 18.

**Clause 4(3)** would amend section 217 of the Civil Partnership Act 2004 (person domiciled in a part of the United Kingdom), which provides for an overseas relationship (as defined in that Act) being registered by a person domiciled in England and Wales, and would increase the age under which two people are not to be treated as having formed a civil partnership from 16 to 18. The Explanatory Notes state: “This is the only provision that extends to Scotland and Northern Ireland and therefore forms part of the law of Scotland and Northern Ireland”.<sup>50</sup> The treatment as a civil partnership of an overseas relationship registered under the relevant law before the Bill comes into force would not be affected (**Clause 8**).

## Consequential amendments

**Clause 5** would enable the Secretary of State to make regulations by statutory instrument which make consequential provision, including transitional or saving provision. The regulations might amend, repeal or revoke provisions of, or made under, primary legislation.

A statutory instrument containing regulations that amend, repeal or revoke primary legislation would be subject to the affirmative resolution procedure, requiring the approval of both Houses of Parliament. Other statutory instruments would be subject to the negative resolution procedure.

The **Schedule** contains minor and consequential amendments.

## 4.3

## Territorial extent and application

The Bill would extend to England and Wales only apart from sections 4(3) and 5 to 9 which would also extend to Scotland and Northern Ireland. An amendment or repeal made by the Schedule would have the same extent as the provision amended or repealed. [Paragraph 17 of the Explanatory Notes](#) provides further information; [Annex A](#) sets out a summary of the position regarding territorial extent and application in the United Kingdom.

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<sup>50</sup> [Explanatory Notes to the Marriage and Civil Partnership \(Minimum Age\) Bill, para 36](#)

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