



## In Focus

### Arbitration and Mediation Services (Equality) Bill [HL] (HL Bill 18 of 2016–17)

#### Key Provisions

The [Arbitration and Mediation Services \(Equality\) Bill \[HL\]](#) is a private member's bill introduced by Baroness Cox (Crossbench). The Bill received its first reading in the House of Lords on 25 May 2016 and is scheduled to receive its second reading on 27 January 2017. The Bill would seek to make further provision about arbitration and mediation services and the application of equality legislation to such services.<sup>1</sup> Setting out the purpose of the Bill, Baroness Cox explained that it aims to address two interrelated issues:

[...] the suffering of women oppressed by religiously-sanctioned gender discrimination in this country; and a rapidly developing alternative quasi-legal system which undermines the fundamental principle of One Law For All. While the Bill does not specify any faith tradition, it has particular relevance for Muslim women who are adversely affected by the policies of Sharia councils.<sup>2</sup>

The Arbitration and Mediation Services (Equality) Bill [HL] would make provisions regarding the application of equalities legislation to arbitration and mediation services. It seeks to prevent providers of arbitration services from doing anything that constitutes discrimination, harassment or victimisation on the grounds of sex. It would do so by inserting a new subsection into the Equalities Act 2010 and into the Arbitration Act 1996. It would also provide clarification that discrimination includes, but is not restricted to, treating evidence from men as being of greater value than that of women, or vice versa. The Family Law Act 1996 would also be amended to allow courts to set aside any order based on a mediation settlement agreement, or other negotiation agreement, if the court believes on the basis of evidence that one party's consent was not genuine. The Bill would also place an obligation on public authorities to inform those who are married according only to certain religious practices, or those in polygamous households, that they may be without legal protection.

Baroness Cox has introduced similar bills in previous sessions. In 2012–13 her private member's bill of the same name was given a second reading in the House of Lords on 19 October 2012.<sup>3</sup> In 2015–16 a bill of the same name progressed to its first reading in the House of Commons but did not receive a second reading.<sup>4</sup>

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#### Background

Under the Arbitration Act 1996, parties to civil disputes may agree to have their dispute arbitrated outside the civil court system. However, courts can set aside the decision if the arbitration did not comply with standards of fairness and procedure set out in the Act. The Act does not apply to criminal

law, and has limited application to family law: although some family financial matters can be arbitrated, issues such as child custody or marital status cannot. Religious courts can grant religious divorces, but not a civil divorce recognised by the legal system.

Baroness Cox has written that the Government has not supported previous iterations of the Bill as it argues that “there is no need for its provisions, as all citizens can freely access their rights”.<sup>5</sup> This is a view with which she disagrees, arguing that many Muslim women are “unaware of their legal rights and can live in closed communities with pressure not to seek ‘outside’ professional help which could invoke ‘shame’ or ‘dishonour’ for their families or communities”.<sup>6</sup>

In May 2016, the Government established an independent review into the application of sharia law in England and Wales. The Review’s terms of reference included the examination of whether, and to what extent “the application of sharia law may be incompatible with the law in England and Wales”.<sup>7</sup> The Review will “examine the ways in which sharia may be being misused, or exploited, in a way that may discriminate against certain groups, undermine shared values and cause social harms”.<sup>8</sup>

The Review is due to report in 2017. In answer to a topical parliamentary question in the House of Commons on 27 October 2016, Justine Greening, Minister for Women and Equalities, stated that the Government was aware of the “concerns” about sharia councils, including “those raised in Baroness Cox’s Bill” and that it takes them “extremely seriously”. The Minister said that the Government will respond to the Bill on its second reading and “will continue to consider the issue in the light of the findings of the independent sharia review”.<sup>9</sup>

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## Further Information

- Baroness Cox, Bow Group, [A Parallel World: Confronting the Abuse of Many Muslim Women in Britain Today](#), March 2015
- Conservative Home, [‘Baroness Cox: How Discriminatory Sharia Law Principles Affect Muslim Women in Britain Today’](#), 24 March 2015
- Dr Russell Sandberg, [‘Reforming Religious Courts: A Comparison of Two Bills’](#), 12 July 2015
- House of Commons Library, [Mediation and Other Alternatives to Court](#), 6 June 2013

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<sup>1</sup> [Arbitration and Mediation Services \(Equality\) Bill \[HL\]](#), HL Bill 18 of 2016–17, preamble.

<sup>2</sup> This text was provided by Baroness Cox on request from the Library.

<sup>3</sup> [HL Hansard, 19 October 2012, cols 1683–1716](#).

<sup>4</sup> [Arbitration and Mediation Services \(Equality\) Bill \[HL\]](#), HL Bill 12 of sessions 2015–16.

<sup>5</sup> Baroness Cox, Bow Group, [A Parallel World: Confronting the Abuse of Many Muslim Women in Britain Today](#), March 2015, p 2.

<sup>6</sup> *ibid.*

<sup>7</sup> Home Office, [‘Independent Review into Sharia Law Launched’](#), 26 May 2016

<sup>8</sup> *ibid.*

<sup>9</sup> [HC Hansard, 27 October 2016, col 418](#).

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