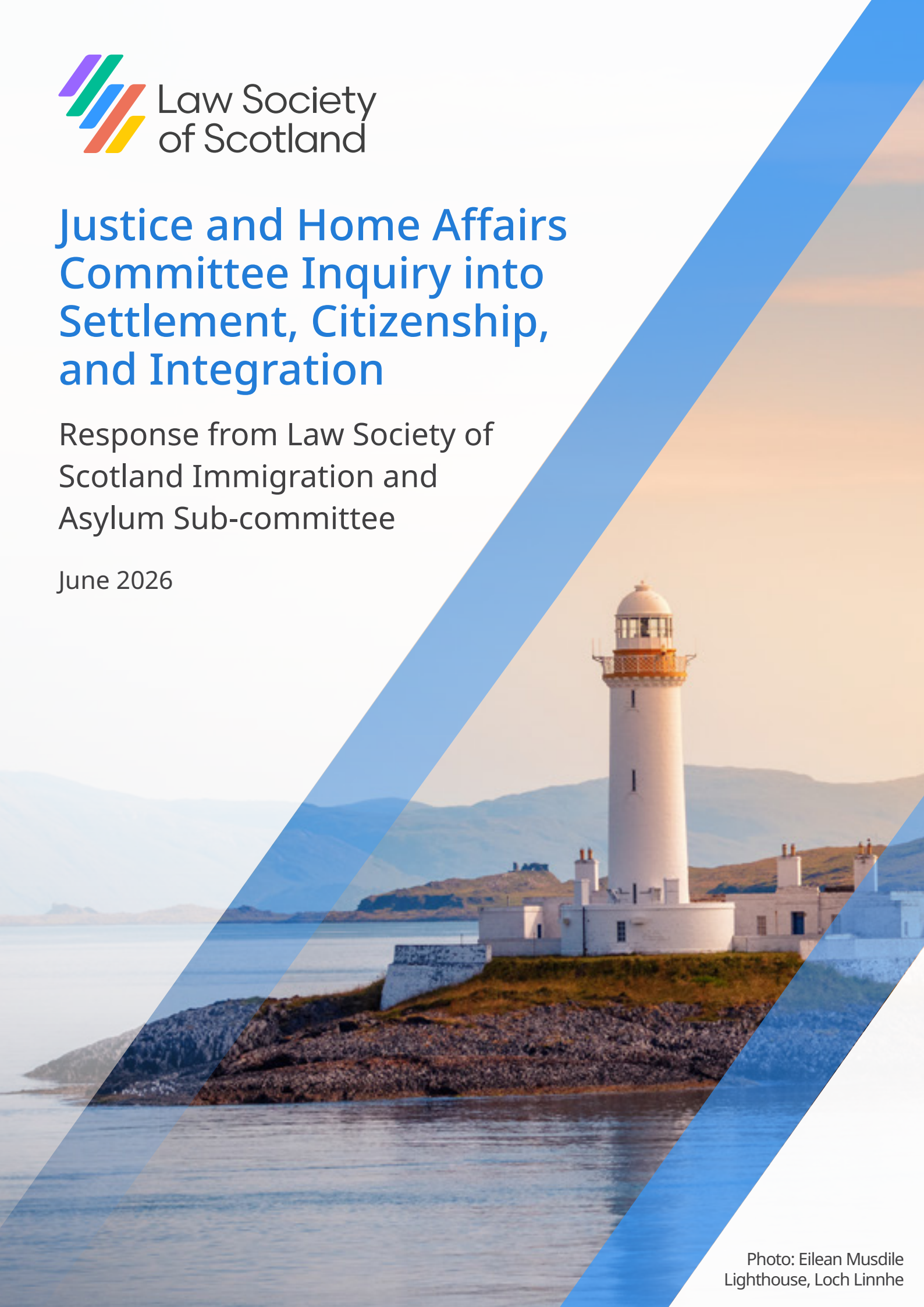


Justice and Home Affairs Committee Inquiry into Settlement, Citizenship, and Integration

Response from Law Society of
Scotland Immigration and
Asylum Sub-committee

June 2026



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors. We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society. Our Immigration and Asylum sub-committee welcomes the opportunity to consider and respond to the Justice and Home Affairs Committee's Inquiry into "Citizenship, Settlement and Integration". Of the questions set out in Inquiry, the sub-committee is only able to respond to those of most direct relevance to its own remit. A one-page summary of our responses is set out immediately below, with more details set out in the following pages.

Summary

1. The proposals on settlement and citizenship seem unlikely to have a significant impact on net migration. Furthermore, many of the proposals on citizenship and settlement risk undermining (a) order, (b) fairness (b) integration, and (c) economic growth.¹

2. Keeping more long-term migrants on temporary visas would increase costs (for both individuals and businesses), impede integration, cause various other problems for migrants, and increase pressure on the UK Home Office, courts and tribunals².

¹ As explained further in paragraphs *** below.

² As explained further in paragraphs *** below.

3. For Scotland specifically the proposed changes seem likely to compound existing skills shortages in the labour market and to increase pressure on the legal aid system³.

4. The current processes for applying for settlement and citizenship are quite complex and could be made slightly simpler⁴.

5. The total costs of applying for settlement and citizenship in the UK are significantly higher than in other comparable European countries⁵.

6. Becoming a UK citizen could be described as a “right” for some people but for the majority of migrants it is not⁶.

7. Acquiring UK citizenship confers various advantages, including removing some barriers to integration. Preserving more benefits for citizens only could amount to unlawful discrimination⁷.

RE: “Recent developments in Government policy on settlement and citizenship”

Question 1: What is the policy intention behind the proposals on settlement and citizenship, and will the proposed changes have the intended effect? What are the terms and conditions of settlement in the UK?

8. The policy intention underlying the proposals specifically relating to *settlement and citizenship* appear to include the following:

- a. To reduce net migration in the UK;

³ As explained further in paragraphs *** below.

⁴ As explained further in paragraphs *** below.

⁵ As explained further in paragraphs *** below.

⁶ As explained further in paragraphs *** below.

⁷ As explained further in paragraphs *** below.

- b. To “restore order, control and fairness” to the UK immigration system;
- c. To promote the social integration of migrants in the UK; and
- d. To promote economic growth.

9. The proposal “to increase the standard qualifying period for settlement to ten years” (other than for family members of UK citizens) seems most likely to affect migrants who have come to the UK as either workers or refugees. Our anecdotal experience is that migrants in these categories tend to be motivated to come to the UK by short-term considerations (e.g. in the case of refugees, safety for them and their families; in the case of workers, better employment conditions and opportunities). A change such as this will only affect migrants in the longer term and as such might not have a significant impact on their initial decision to come to the UK. As such, the proposed reform is unlikely to have a significant impact on net migration.

10. (NB. Please note that this is distinct from the proposals to restrict the criteria for skilled workers seeking to come to the UK initially. These proposals appear likely to have a more significant impact on reducing net migration. However, they also seem likely to under other policy goals such as promoting economic growth and social cohesion).

11. Increasing the standard qualifying period for settlement seems likely to undermine integration. This is principally because migrants on short-term resident permits will inevitably find it more difficult to secure long-term employment in the UK, or to access services such as mortgages and further education.

12. Increasing the qualifying periods for settlement in the UK is also unlikely to “restore order” to the UK immigration system. Indeed, it will increase the number of applications that the Home Office staff need to process, which will inevitably put extra pressure on Home Office resources. As a result this reform could well

have the unintended effect of causing further delays and backlogs in the immigration system.

13. There is a clear risk that the proposals to limit the scope of ECHR Article 8 would also undermine order and control. Previous attempts to restrict ECHR Article 8 (by the Conservative / Liberal coalition government in 2012) led to lengthy litigation and more (rather than less) complexity and confusion to this area of the law.

14. It is also difficult to see how restricting migrants' ability to access basic human rights (such as under ECHR Articles 3 and 8) could restore fairness to the immigration system. It is a fundamental principle that human rights protections should be equally available to all (i.e.. including migrants / non-citizens).

15. There is also a clear risk that restricting the scope of human rights protections available to migrants is likely to lead to outcomes that are unjustifiably harsh. Such outcomes seem likely to undermine rather than restore public confidence in the immigration system.

Question 4: What are the implications of having many long-term residents on temporary visas without access to ILR and/or citizenship?

16. The main impact will be increased costs to visa applicants and sponsors as it will mean additional visa extension applications will be needed including payment of the Home Office fee and Immigration Health Surcharge as well as certificates of sponsorship and immigration skills charges for sponsors of skilled workers.

17. In the skilled worker category, visa-holders and sponsors would be required to sponsor skilled workers for longer periods and make further extension applications, increasing business expenditure and potentially limiting a business' ability to sponsor skilled workers due to costs. Making the pathway to settlement

more difficult for skilled workers and their families may also make recruiting the most talented skilled workers more difficult.

18. Longer periods on temporary visas could also cause barriers to integration. Some examples of why this is so are set out at paragraph ** above. Furthermore, longer periods before acquiring citizenship, also means an increased group of migrants living in the UK who are unable to vote, stand for election or do certain public sector jobs.

19. It may also mean that more applicants on the family route are unable to cover the continued costs and be required to make applications for fee waivers.

20. All of this would increase the workload on the Home Office, with more applications for visa extensions and fee waivers needing to be processed.

21. Whilst an application is under consideration, the applicants' leave to remain usually continues automatically under Section 3C of the Immigration Act 1971. In practice, however, applicants with "Section 3C leave to remain" often encounter difficulties proving their right to reside, work, and access public funds in the UK. Employers and even DWP staff are often unfamiliar with the process of checking an applicant's right to work. Members of this sub-committee frequently see cases where applicants' welfare benefits and / or employment are wrongly terminated or suspended, causing distress, debt, and a risk of destitution for the applicant and their family.

QUESTION 6: What are the implications of the proposed changes on the devolved nations of the UK and on the Common Travel Area?

22. There is evidence that Scotland is currently experiencing a skills shortage in recruitment so increased costs to businesses and applicants would compound this.

23. It is likely to also put further pressure on the Scottish legal aid system. With increased costs and complexities meaning there will likely be further demand on access to legal aid.

RE: “The Citizenship Process”

QUESTION 1: Is the process of applying for ILR and Citizenship too complex, or is complexity unavoidable?

24. Almost all UK immigration applications are complex, including those for ILR. However, it is our experience that most ILR applications tend to be slightly less complex than applications for temporary visas.

25. Applications for UK citizenship are also often complex albeit slightly less so than applications for leave to remain. A principal reason for this seems to be that citizenship applications are based on primary legislation (specifically, the British Nationality Act 1981 / “the BNA”), which is less complex than the extremely complicated UK Immigration Rules on which all leave to remain (including ILR) applications are based.

26. Whilst *some* degree of complexity in both types of application is probably unavoidable, it is our belief that both could be made simpler. One way of achieving this could be through simplification of the structure and content of the UK Immigration Rules. Another way would be removing various confusing and unnecessary questions from the relevant application forms. Some examples of these are set out below.

a. In ILR applications:-

- i. Questions asking about ALL absences from UK since the date of first arrival⁸;
 - ii. Questions re remaining “economic, social or cultural ties” with applicants’ country/ies of nationality and/or previous residence⁹;
 - iii. For individuals applying for ILR based on domestic violence or bereaved partners, various questions asking whether their relationship with their estranged or deceased partner was “genuine and subsisting” (such questions are clearly insensitive yet also unnecessary as they relate to matters which have been proven in previous applications).
- b. In citizenship applications:-
- i. Questions about an applicant’s parents;
 - ii. Questions about an applicant’s previous partner/s;
 - iii. Question requesting a tax reference number (it is not at all clear what this number is and in any event it should be possible to obtain any necessary information through the Applicant’s NINo);

QUESTION 2: What are the total costs and requirements of applying for ILR and citizenship, and how do they compare with other countries?

27. The cost of applying for ILR currently (not including legal fees) on most routes is: £3029 per person. However, there is currently no application fee for refugees applying for ILR.

⁸ For many migrants it is extremely difficult or impossible to remember precise details such as dates from several years ago. At the same time, such information will have been provided in previous applications so should be readily accessible to Home Office staff from Home Office records.

⁹ Such questions are vague and confusing. They also tend to create the misleading impression that one needs to sever ties with previous countries of residence in order to acquire ILR.

28. The cost of applying for citizenship through naturalisation (i.e.. for most adult applicants) is £1735.

29. The cost of applying for UK citizenship through registration (i.e.. for most child applicants) is usually £1214.

30. Some comparative costs from other European countries are set out below:

a. **Norway**¹⁰

- i. Permanent residence permit for adults: NOK 4 000 (c.£295)
- ii. Permanent residence for children - no fee
- iii. Citizenship application 6500 NOK (c.£480)

b. **Germany**

- i. Permanent residence for adults: between €113 and €147¹¹
- ii. Permanent residence for children: between €55 and €77¹²
- iii. Citizenship: €255¹³

c. **France**

- i. Long stay residence permit: €225¹⁴
- ii. Citizenship ("Naturalization by Decree"): €55¹⁵

QUESTION 4: Under the Immigration White Paper's expansion of the points-based system, what will happen to those who never 'earn' enough points to achieve ILR or citizenship?

31. They will remain on a temporary visa, applying for extensions indefinitely, increasing long term insecurity. Under the family route a current extension of 2.5 years has a total cost per person of £3908.50 for an adult (£1321

¹⁰ Figures from: <https://www.udi.no/en/word-definitions/fees/#link-3594>

¹¹ <https://www.germany-visa.org/immigration/permanent/#fees>

¹² <https://www.germany-visa.org/immigration/permanent/#fees>

¹³ <https://www.xn--einbrgerung-whb.de/service.php?l=en>

¹⁴ <https://www.welcometofrance.com/en/fiche/resident-card>

¹⁵ https://www.service-public.gouv.fr/particuliers/vosdroits/F34708/1_0_0_1_0_1_1_0?lang=en

application fee and 2,587.50 Immigration health Surcharge) and £3261 (£1321 visa application plus £1,940 immigration health surcharge).

32. Increasing the period of time over which these fees must be repeatedly paid in addition to costs increasing each year, may result in an increase in applications for fee waivers. Especially if the benefit of paying the fee and being on the five-year route to settlement no longer exists.

33. For those eligible for legal aid for immigration applications for example in Scotland, this is likely to increase the demand on legal aid lawyers in an area where access to legal aid can be limited and is already under pressure.

34. There may also be an increased number of applicants in Scotland whose income will exceed the legal aid threshold but due to increased visa applications costs could be unable to access a private solicitor and therefore be unable to access legal advice. this could lead to a corresponding increase in errors, refusals and ultimately appeals. This would put further pressure on the immigration and asylum tribunal system which is currently dealing with a backlog¹⁶.

35. For those in medium skilled roles which would not benefit from reduced settlement periods it could also lead to a situation where they are tied to their current employer for longer periods and unable to leave that job increasing the potential for exploitative employment situations. If made redundant a skilled worker also needs to find a new employer in a short period of time or leave the UK if they do not qualify for another visa route so being unable to settle in the UK would mean they would have the risk of being required to leave the UK in the event they lose their position for an indefinite period.

¹⁶ <https://www.gov.uk/government/news/tribunal-system-reforms-to-speed-up-asylum-decisions>

QUESTION 5: *Is citizenship a right or a privilege? Who is entitled to UK citizenship?*

36. Under UK nationality law it could be said that there are some individuals who have a “right” to UK citizenship. These are:-

- a. People who are UK citizens by birth;
- b. People who acquire UK citizenship under those provisions of the British Nationality Act 1981 (“BNA”), which confer an “entitlement” to register as a UK citizen¹⁷. The language of the Act (and specifically the use of the word “entitled”) indicates a *right* for such individuals to become UK citizens. Such a right was recognised by the UK Supreme Court in the case of [R \(on behalf of PRCBC\) & Or.s v SSHD \[2022\] UKSC 3](#) (e.g. at paragraph 5 thereof). However, these provisions only apply in specific circumstances, and the great majority of adult migrants cannot benefit from them.

37. For any other individual seeking to become a UK citizen (which includes the great majority of adult applicants for naturalisation), the Secretary of State retains a discretion to grant the application “if he thinks fit”. As such it is difficult to say that such individuals have a “right” to become UK citizens.

38. Even for those who can be said to have a “right” to UK citizenship, it should be noted that in the [PRCBC](#) judgement referred to above the Supreme Court noted that this such a right is not one which has “have been recognised as fundamental or constitutional”. This is perhaps demonstrated by the Secretary of State’s very wide powers to extinguish the UK citizenship of almost any UK citizen on the basis that it is deemed “conducive to the public good”. The sub-committee wishes it to be noted that the conferring of such a draconian power

¹⁷ Specifically, those provisions are at Sections 1(3), 1(4), 3(2), 4AA, and also paragraphs 3A and 4 of Schedule 2 of the BNA.

on such a vague and almost unlimited basis gives rise to serious concerns regarding the rule of law¹⁸.

39. The word “privilege” in this context is not a legal term of art so it is difficult (and arguably inappropriate) for the sub-committee to provide an opinion on its use. However, one observation we make is that the language of “privilege” arguably does not sit easily with the concept of citizenship or settlement having been “earned”.

RE: Applying for Citizenship and its impact on integration and social cohesion

QUESTION 1: What are the advantages of becoming a British citizen versus remaining on Indefinite Leave to Remain and should there be certain benefits reserved for citizenship? What other reforms to the citizenship process should be considered and would they require changes to primary legislation?

40. The main advantages of becoming a UK citizen, as opposed to remaining on Indefinite Leave to Remain in the UK are as follows:

- a. Greater certainty/ security regarding long-term entitlement to live in UK;
- b. Entitlement to a UK passport, resulting in relative ease of overseas travel for many migrants (particularly refugees);
- c. Less barriers to access to certain jobs / careers (e.g. in British armed forces or certain civil service posts);
- d. Less likelihood of being wrongly refused employment or benefits;
- e. A slightly greater likelihood of one’s children being UK citizens;
- f. Greater voting rights in UK elections.

¹⁸ Whilst we acknowledge that this issue does not answer any of the specific questions asked, our view is also that it is an “important issue related to the inquiry” and therefore we are bringing it to the Committee’s attention, as requested in the Inquiry’s published “Call for Evidence”.

41. The question of whether more advantages should be reserved for UK citizens is largely a political question on which it would not be appropriate for the sub-committee to comment. However, the sub-committee can make the following observations on this issue: -

- a. Our anecdotal experience indicates that a large proportion of persons with ILR apply for UK citizenship soon after becoming eligible for this.
- b. If welfare benefits were reserved for UK citizens, then this would seem likely to push many migrants (and particularly migrant families with children) into poverty. This would seem likely to undermine social integration and cohesion.
- c. Of those individuals with ILR who do not apply for UK citizenship a common reason is that their existing country of nationality does not permit dual nationality. For such individuals declining to become a UK citizen is often a forced decision rather than a choice freely made. As such there is a risk that excluding such individuals from further benefits on the basis of their nationality would constitute indirect discrimination, contrary to the Equality Act 2010 and ECHR Article 14.

For further information, please contact:

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