Home Office
UK Border Agency

THE PATH TO CITIZENSHIP: NEXT STEPS IN REFORMING THE IMMIGRATION SYSTEM

GOVERNMENT RESPONSE TO CONSULTATION

July 2008

CONTENTS

FOREWORD

British people have welcomed migrants over the years. Our economy and our communities are stronger for their contribution to British life. But the public is right to demand an immigration system that delivers for the country.

We have listened. The biggest shake-up to our border protection and immigration system for over 45 years is well underway. The changes we propose will mean:

- **stronger borders**, with fingerprint checks overseas; the introduction of a strong new force at the border equipped with modern powers; rolling out systems for counting people in and out of the country; and the introduction of identity cards for foreign nationals.

- **controlled migration**, through the roll out of the Australian style points based system, ending low skilled migration from outside Europe, and overhauling other routes into the UK for visitors and family members, including spouses.

- **a firm but fair system**, enforcing the deal that newcomers make - including the automatic deportation of foreign criminals and civil penalties for the employers who do not make the right checks and employ illegal workers; and with faster decision making – to help people who need our protection and to act against migrants who break the law.

It is against this backdrop that we will now implement the next phase of reform: creating a new **path to citizenship**, one in which the expectation will be on newcomers to 'earn' the right to stay by learning English, paying taxes, obeying the law and contributing to the community. This reform is part of the wider work being conducted across Government to reinforce our shared values and increase the cohesiveness of our communities.

The Green Paper 'The Path to Citizenship', which I announced on 20th February, set out our proposals. Listening to and responding to the concerns of the British public is at the heart of what we propose. That is why we have undertaken this consultation; why the Minister for Border and Immigration held a series of sessions around the country at which he listened to what the public want from the immigration system; and why we have undertaken polling of the British public on the proposals in the consultation paper.

In the light of our consultations, this document sets out the new path to citizenship that we will implement.

We will:

- Create a new path to citizenship, with **three routes to naturalisation as a British citizen:**

  1. **Work**: highly skilled and skilled workers under the points-based system, and their dependants;
  2. **Family**: family members of British citizens and permanent residents;
  3. **Protection**: those in need of protection (refugees and those granted humanitarian protection).

And **three stages in the journey**:

  1. **temporary residence**;
  2. **probationary citizenship**;
  3. **British citizenship or permanent residence**.

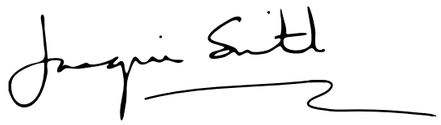
- Enable migrants to speed up their progress to citizenship where they contribute to the community through 'active citizenship', for example by volunteering for a charity.

- Ensure criminal behaviour has consequences: a migrant's progress through the system will be stopped if they commit a crime that receives a custodial sentence, and they will be removed from the UK; and their progress will be slowed down for minor crimes.

- Restrict access to mainstream benefits, social assistance, local authority housing, homelessness assistance – migrants will have no access to these benefits until they have 'earned' the right to British citizenship or permanent residence.

- Introduce a fund to manage the transitional impacts of migration, to which we will ask newcomers to contribute, and which will be used to help alleviate the transitional pressures we know migration can bring.

We want to make the journey to citizenship clearer, simpler and easier for the public and migrants to understand. And we think it's fair that the rights and benefits of citizenship are matched by responsibilities and contributions to Britain.



Jacqui Smith MP
Home Secretary

SECTION 1

1.1 INTRODUCTION

On 20th February 2008 the Government published the Green Paper 'The Path to Citizenship: Next Steps in Reforming the Immigration System'. The Green Paper combined our proposals for reform of the path of citizenship with more detailed proposals for simplification of immigration law.

The Green Paper set out our vision for a new journey to citizenship, one in which rights are matched by responsibilities, and which will help ensure that we manage immigration in a way which maximises the benefit to Britain while managing any local impacts. Our proposals covered: who can qualify for citizenship; the stages in the journey; how migrants should 'earn' the right to progress between stages; asking newcomers to contribute a little extra to help pay for the transitional effects of migration; and delaying access to public services until full citizenship or permanent residence is achieved. Collectively we call the proposals 'Earned Citizenship'.

Our proposals for Earned Citizenship contribute to policy across Government to strengthen modern communities and reinforce the shared standards that pin British life together. We have carefully studied Lord Goldsmith's report into citizenship 'Our Common Bond' and the recent report[1] from the House of Lords Committee on Economic Affairs.

We invited views on the proposals with a consultation period running until 14th May. We received nearly 600 responses and are very grateful to those who took the time to contribute. A full summary of these responses can be found at:

www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/pathtocitizenship/

[1] 'The Economic Impact of Immigration' Session 2007-08 hl paper 82 (March 2008) http://www.parliament.the-stationery-office.co.uk/pa/ld200708/ldselect/ldeconaf/82/8202.htm

This paper sets out how (in the light of responses received) we intend to take forward our proposals for reform of the path to citizenship.

1.2 THE CASE FOR CHANGE

In broad terms our reform of our border security and immigration systems has four objectives:

- We are **strengthening our borders**

  We are creating a single border force; introducing new electronic controls including counting people in and out of the country; introducing fingerprint visas for 100% of visas; and introducing ID cards starting with foreign nationals.

- We are **selective about who we let in**

  We are introducing an Australian-style points-based system for newcomers, with a zero cap on non-EU low skill migration and an end to automatic citizenship based on length of stay.

- **Earning the Right to Stay**

  We are strengthening measures to ensure those who want to make the UK their home will speak English, work hard, pay tax, and support themselves without access to benefits or social housing until citizenship or permanent residence. And we are taking tough action against illegal migrants and removing newcomers who break the law; and taking tough action against employers who knowingly hire illegal workers.

- We are **maximizing the benefits of migration for Britain and managing local impacts.**

  Migration has significant economic benefits, both for GDP and GDP per head. At the same time it produces benefits for the economy by improving the employment rate, wages, productivity, and by helping to fill skills gaps. But we know migration can have local impacts, so we are asking newcomers to pay a little extra to a fund to help.

To control migration effectively we want our system to allow:

- The UK to attract those with the skills who can make a positive contribution to the UK, through work and study.

- British citizens to be reunited with their families.

- Protection to be given to those fleeing persecution who require sanctuary.

Reforming the **path to citizenship** is an essential part of these changes.

We want to create a system that is welcoming but above all fair. That is why our proposals for reform of the path to citizenship set out clearly the obligations and entitlements of migrants at each step on the road to British citizenship.

Our policy has been heavily influenced by the views of the public. Our public listening sessions, held across the country and led by the Minister for Borders and Immigration, found very strong support for the key elements of the new path to citizenship outlined above.

Changing the law

To deliver the changes we propose will require changes to the law and the Immigration Rules.

We announced an Immigration and Citizenship Bill in the Draft Legislative Programme for 2008-09. This bill will replace all existing immigration legislation with a tougher, simpler framework to control our borders, manage migration and reform the path to citizenship. The bill will legislate for earned citizenship. Alongside this response we are therefore publishing a partial draft bill for pre legislative scrutiny and further consultation, along with a document describing how the partial draft bill will be filled in.

1.3 CONCLUSION

We have carefully considered the responses to the consultation, as well as the views of the public received via our public listening sessions and through our MORI polling.

This document now sets out our proposals for a new Path to Citizenship, looking at the routes to citizenship and the stages in the journey, then detailing how migrants can progress between stages, before looking at the impact of migration and the access to benefits and public services migrants should have at each stage of the journey.

SECTION 2

2.1 ARCHITECTURE

2.1.1 The key proposals:

- There will be three routes to citizenship:

  1. Work: highly skilled and skilled workers who enter under Tiers 1 and 2 of the points based system.

  2. Family: family members of British citizens and permanent residents.

  3. Protection: those in need of international protection (refugees and those granted Humanitarian Protection).

- We will create a clear journey towards becoming a British citizen or permanent resident by putting in place a three stage path, which will include a new 'probationary citizenship' stage.

- We will create an alternative to British citizenship for those who are unable to apply for this. We will call this 'permanent residence'.

- We will retain a route to citizenship based on UK Ancestry as a family route to citizenship.

- We will abolish the 'retired persons of independent means' route.

2.1.2 THE CONSULTATION

In the Green Paper, we set out proposals for three routes to citizenship: work; family; and protection – and three steps in the path: temporary residence; probationary citizenship; and British citizenship/ permanent residence.

We invited views on the clarity of the system; the new probationary citizenship stage; whether there should continue to be a category of permanent residence; whether there should continue to be a route to citizenship based on UK Ancestry and a route for retired persons of independent means; and on how Gateway refugees should progress along the path to citizenship.

a) The new path to citizenship

The majority of respondents to the consultation agreed that all parts of the proposed system are clear and easy to understand. Some concerns were raised about how those already in the system will be affected by the proposals and how any transitional arrangements would work. Further clarity was sought about the rights a probationary citizen would have compared to the rights of British citizens.

A minority of respondents were unclear about the proposed stages in the 'journey to citizenship' and greater clarity was sought on areas such as the entitlements of family members and how the requirements to progress would operate in practice.

We recognise the importance of understanding the effects of the current proposals on those who may already be in the system. We will continue to examine this in advance of making the changes.

b) Probationary citizenship

Our aim in creating this new stage is to ensure migrants demonstrate that they have 'earned' the right to full citizenship or permanent residence. By spending a specific minimum period as a probationary citizen, newcomers have the opportunity to demonstrate their commitment both to the UK and to integrating fully into British society. The new probationary citizenship stage will let us make sure that only those who truly deserve to hold British citizenship – a right which we believe migrants should be proud to hold and be prepared to earn – are given this status.

The proposal to create a probationary citizenship stage prompted a number of comments.

Some respondents supported the creation of this new stage, agreeing that it was a good way to ensure integration and contribution to the UK:
"This seems fair to me. I believe that anyone who wishes to become a UK citizen should demonstrate themselves as having integrated into and contributed to British society. It should be mandatory for all those who wish to become citizens to demonstrate an acceptable level of English and an understanding of British society." (Individual)

Others raised some concerns. Some felt the stage was unnecessary as the temporary residence stage is already probationary in nature. Others indicated that probationary citizenship could lead to more confusion by creating an extra stage for migrants to pass through.

"I am concerned that in creating a category of 'temporary citizenship', Britain risks repeating the mistakes of the past, namely creating multiple categories of citizenship, each with different rights. I am concerned 'probationary' citizenship would create confusion, and could potentially lead to the creation of stateless persons." (Individual)

Others were worried that the new stage might discourage rather than encourage integration particularly as the name 'probation' is associated with the criminal justice system. Some felt that probationary citizenship may create a 'second class' citizen status. Some respondents were concerned about the introduction of probationary citizenship leading to the lengthening of the timescale to achieve a permanent status in the country and did not feel that there was a need for this.

We continue to believe that this second stage in the journey has a vital role to play in creating a system that is clearer and easier to understand. **We still believe that an explicit stage which recognises that migrants are on a journey and need to continue earning the right to become British citizens is the right way to proceed.**

In addition – and as will be clear from the following chapter on progression – the probationary citizen stage enables us to introduce a system that has a better match between rights and responsibilities, speeding up progress for those who contribute and make an effort to integrate and slowing down progress for those who do not obey the law.
We recognise there are concerns about the language. At this stage we think 'probationary citizenship' conveys the appropriate message for what is a stepping stone between temporary residence and British citizenship. But we will continue to consider alternatives as this is debated in Parliament.

d) Permanent residence

We recognise that some people will be unable to apply for British citizenship - because of restrictions on holding more than one nationality in the law of their country of origin - and we therefore proposed the creation of a permanent resident category. We proposed that migrants who chose this option should be required to spend longer as a probationary citizen.

A majority of respondents supported the creation of a distinct route of permanent residence for persons who do not wish or who are not able to become British citizens. It was deemed appropriate to give migrants freedom to retain another citizenship and the flexibility to move between countries as family and business needs may demand.

"They may still have relatives in their original country and it is much easier to be able to travel freely if you are a national of the country you are travelling in" (Individual)

A minority of respondents felt that migrants needed to make a choice on whether or not to be British and felt that British citizenship was incompatible with holding another passport.

"Migration requires integration. We must question why some migrants would be reluctant to become British citizens and relinquish their nationality of birth." (Individual)

We have also considered with interest Lord Goldsmith's views. In his report 'Our Common Bond', Lord Goldsmith said that consideration should be given to a system which required people to apply for British citizenship if they wished to remain here permanently. But he also recognised the difficulty of requiring people to relinquish their own nationality and suggested that there is an argument for the retention of a category of permanent resident purely for this group.

On balance, **we believe it is appropriate to create a category of permanent resident.** We think this will become only a minor feature of the new system as we have created incentives to apply for full citizenship, and because only a small proportion of countries prohibit dual nationality completely. We do not think it is right to force people to become British citizens should they wish to remain here permanently. However, we agree that the acquisition of full British citizenship helps full integration into our society and that our proposals should create an incentive for people to choose this route rather than seeking to simply become a permanent resident. That is why we are proposing that those who wish to become permanent residents must reside as a probationary citizen for a longer period than those progressing towards citizenship.

d) UK Ancestry and Retired Persons of Independent Means

We invited views on whether there should continue to be a route to citizenship based on 'UK ancestry' and a route for 'retired persons of independent means'.

The UK ancestry provisions were introduced in 1972 and allow a Commonwealth citizen, aged 17 or over, to come to the UK provided he is able to show that one of his grandparents was born in the UK and that he intends to take or seek employment in the UK. This route currently provides an avenue to settlement after five years, in line with existing employment routes. Those entering under the UK ancestry route have free access to the labour market on entry.

Retired persons of independent means can come to the UK if they are aged 60 or over, have an income of at least £25,000 a year, have a close connection with the UK, intend to make the UK their home and are able to financially support themselves. This route provides an avenue to settlement after five years. Migrants entering the UK through this route are not required to have worked or paid taxes in the UK but have free access to healthcare on arrival and full access to the benefit system after 5 years in the UK.

The majority of respondents were not in favour of the proposals to remove these routes.

UK Ancestry
Those supporting the retention of this route cited our historical ties with other Commonwealth countries and the fact that maintaining familial links to the UK was an important factor amongst nationals of other Commonwealth countries.

"This immigration route should be retained because it represents an effective means to encourage individuals with legitimate British ancestry to return to their roots and to contribute to life in Britain." (Individual)

Conversely those who supported abolition indicated that the route was unfair to the majority of other economic migrants and that the right to citizenship should be assessed solely on the basis of what a migrant can contribute to society - all migrants should be made to pass through the same system so that the system is fair to all.

"A third generation individual should not be able to claim citizenship based on his/her predecessor's doings. They should be put through the same route as any other individual whose family never had any ties with the UK." (Individual)

The Government values the special relationship it holds with all Commonwealth countries and we recognise that large numbers of Commonwealth nationals regard their ancestry as British and treasure the ancestry route to citizenship in the UK. We are particularly grateful for the representations made to us by Commonwealth countries and the emphasis they attach to this route. We have also had the benefit of a very helpful debate in Parliament on the issue.

It is clearly important that, as we modernise our system, we pay close attention to all the different routes that have existed in the past. Having considered this very carefully **we believe that it is right to retain a route to citizenship based on UK Ancestry** and that this remains open to all Commonwealth nationals, as it contributes to our policy objective of reuniting British families. Persons entering on this route however, will be required to progress through the probationary citizenship stage before applying for British citizenship or permanent residence.

Retired Persons of Independent Means
The comments we received were varied: some respondents felt that migrants entering under this route were not a burden to society as they are required to support themselves; others felt that these migrants should not be entitled to access NHS care as they had not previously contributed through paying taxes and National Insurance.

"As long as they are able to support themselves and pay their way, they should be allowed to come and live here. However, they should not have access to public funds, unless they have made contributions through National Insurance and income taxes. The access to free medical assistance should also be limited to emergencies only." (Individual)

We received comments that the financial threshold for qualifying as a retired person of independent means should be increased whilst others highlighted the links that this route provides to family ties within the UK.

We are conscious of the limited take-up of this route with on average less than 20 applications for leave to enter the UK per year. In addition we are advocating that citizenship should be earned and that all migrants must demonstrate certain requirements in order to progress on their journey.

We recognise that those entering under this route are required to be self-sufficient. But we agree with comments received during the consultation that the amount of disposable income that these migrants must demonstrate may not match the demands they may place on public services. In light of this, and the limited numbers applying under this route, **we believe it is right to no longer permit entry as a retired person of independent means**. We will therefore amend the immigration rules to this effect in due course.

Gateway refugees
The Gateway Refugee Programme is the UK's international commitment to offer permanent protection to refugees who have already been assessed in their own countries by UK Government officials, as being in vulnerable situations and where resettlement is the only option.

We received a similar number of responses supporting and opposing an immediate grant of settlement to gateway refugees upon their arrival into the UK. In general those who opposed this stated that all refugees should undergo an active review of their circumstances, that they should follow the same route as other migrants, and be willing to demonstrate their commitment to the UK and have begun the process of integrating into society before being granted permanent status.

"No. This category also should have a minimum period of temporary residence and probationary citizenship. During this period there should be an active review." (Individual)

"They should demonstrate they are law-abiding people willing to learn the language and integrate. If they can't speak the language, don't wish to integrate and are breaking the laws they will not be happy in this country and this country will not be happy with them." (Individual)

Those who supported retention of this automatic right can be summed up by the following response received:

"These individuals have already made their case to a respected authority and are already extremely vulnerable, being granted refugee status prior to arrival, aids their integration and helps them to settle." (Organisation)

We believe the fact that their status as refugees has already been established before their arrival vindicates their being granted permanent status as soon as they arrive. In most cases they will have

spent a considerable period of time outside their country of origin and there is no prospect of their return there.

We propose that gateway refugees be required, as now, to spend a minimum time period as permanent residents before they are able to naturalise as British citizens. Their knowledge of English will be tested before they can qualify and they will be subject to criminality checks. In this way they will still need to earn their right to be a citizen of this country.

2.2 MOVING THROUGH THE SYSTEM

2.2.1 The key proposals:

- We will require migrants to demonstrate English Language[2] and knowledge of life in the UK before becoming a probationary citizen.
- We will require those entering on work routes to complete a minimum time period working and paying tax; those entering as spouses/partners on the family route to demonstrate a subsisting relationship; and those on the protection route to demonstrate a continuing need for our protection.
- We will speed up the journey to British citizenship and permanent residence for migrants who demonstrate 'active citizenship'. We will establish a working group with the voluntary sector and local government, to advise us on the most effective way to operate this in practice.
- Serious offenders will face automatic deportation. We will, as a rule, stop any migrants from progressing towards citizenship if they have received a custodial sentence that falls below the deportation threshold. They will be required to go home when their permission to be in the UK expires.
- We will slow down progression for migrants who commit crimes or misdemeanours which are not serious.

[2] The requirement to speak English is referred to in this document, but please note that demonstrating knowledge of either Welsh or Scottish Gaelic also satisfies this requirement.

2.2.2 THE CONSULTATION

To ensure that the responsibilities of migrants are more clearly matched with migrants' rights we set out four ways in which migrants can earn the right to progress through the stages highlighted above:

1. Speaking English.
2. Working hard and paying taxes.
3. Obeying the law.
4. Demonstrating active citizenship.

We invited views on the proposed time periods for completing the journey to British citizenship and permanent residence; whether migrants should be required to demonstrate 'active citizenship' in order to progress, and if so what should constitute 'active citizenship'; and what the effect of committing crimes should be on a migrant's progress through the system.

We have proposed that the journey towards citizenship can be speeded up or slowed down depending on whether migrants meet the 'obeying the law' and 'active citizenship' requirements. We have also considered what the impacts that a crime committed by a child should have on an entire family's right to progress.

The new architecture for the journey to citizenship, including time periods and progression requirements, is illustrated in the table below:

a) Speaking English

Our public listening events found very strong support among the public for the view that the ability to speak English is the most important factor affecting the integration of a migrant to the UK; and very strong support for the view that the ability to speak English should be an important criterion in considering whether to grant a person citizenship. The responses to the consultation supported this view.

The current position is that migrants are expected to demonstrate English language ability and knowledge of life in the UK before being granted settlement. A small number of migrants such as bereaved spouses/civil partners are exempt from this requirement at settlement but must meet these requirements before being granted citizenship. They do this either by completing an ESOL (English for Speakers of Other Languages) course and demonstrating progression from one ESOL level to the next (if they are assessed as below ESOL Entry 3) or by taking the Life in the UK test, (which is aimed at ESOL Entry 3 or above). ESOL Entry 3 requires the migrant to be able to understand and communicate on familiar topics, write simple text and describe experiences and emotions.

In the new system this provision will apply to those seeking to progress from temporary residence to the probationary citizenship stage. Those currently exempt at settlement will continue to be exempt at probationary citizenship. However they will still have to meet the requirements in order to qualify for citizenship or permanent residence, unless they have a legitimate claim for exemption under the more limited naturalisation criteria of age or disability.

b) Time periods

In the consultation paper we proposed differing time periods for the routes to British citizenship and permanent residence.

We proposed that migrants on the work and protection routes should be able to progress from temporary residence to probationary citizenship in 5 years; and that migrants on the family route should be able to progress from temporary residence to probationary citizenship in 2 years.

We proposed that once at the probationary citizen stage, migrants on all routes should be able to qualify for British citizenship after a minimum of one year if they pass the right tests; and that they should be able to qualify for permanent residence after a minimum of three years.

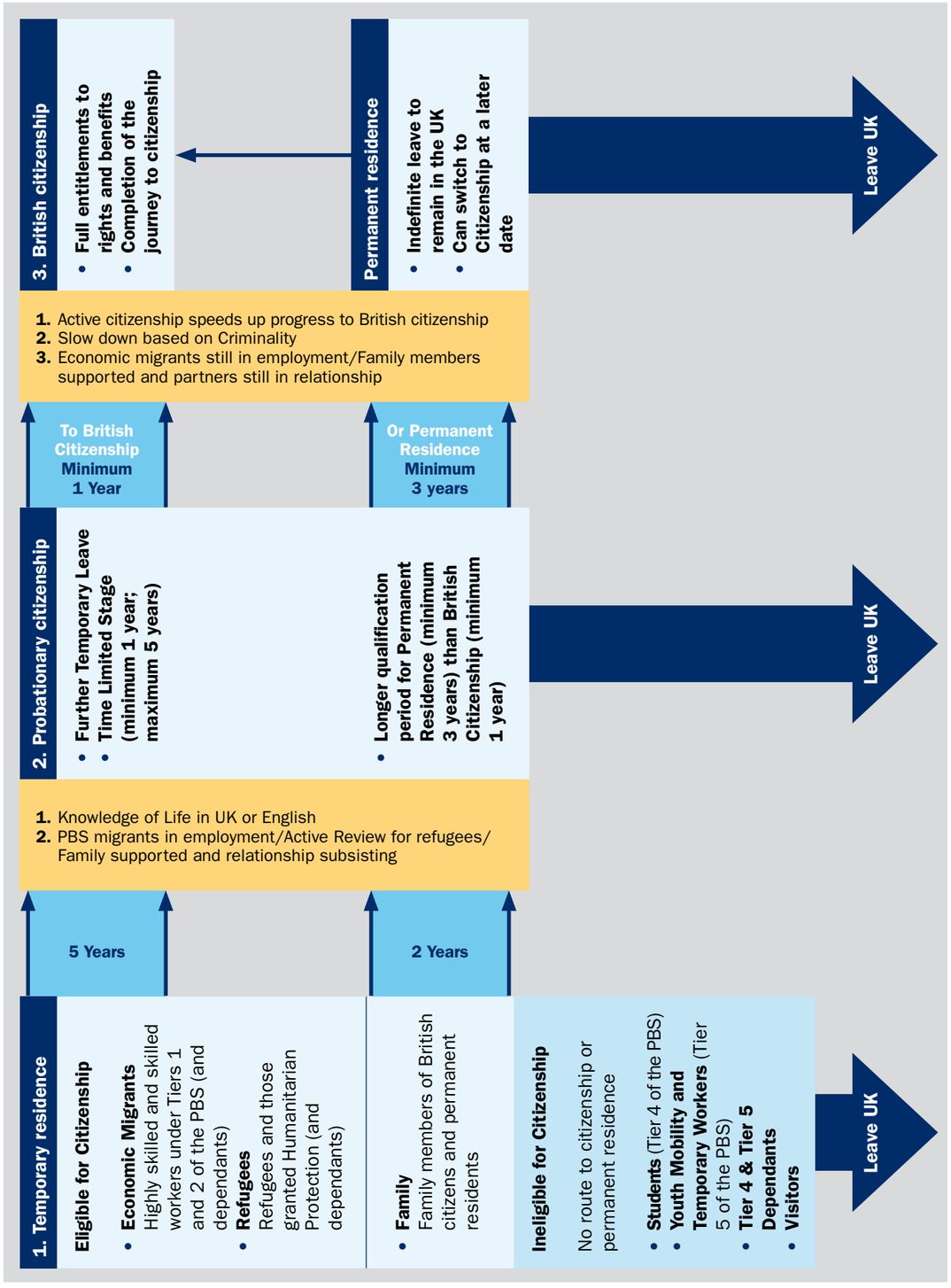


Figure 1. The new system: entry to citizenship, including time periods and progression requirements

We received a wide range of views on these proposals. Many considered the time periods were appropriate, others indicated that the time periods were in general too long, while a significant minority suggested the time periods should be extended.

British citizenship

In relation to the time periods to reach, some argued in favour of a reduction in the proposed time periods for economic migrants to reach British citizenship, citing their contribution to the UK through working and paying taxes.

"6 years is way too long. If migrants pay tax and contribute to the economy, they should also enjoy all benefits that citizens enjoy." (Individual)

A significant number of respondents considered that the time periods for those on the family route to reach British citizenship were appropriate. Others suggested that the time periods should be the same for economic and family migrants too.

"There is no reason that the qualification periods should be different for these categories. These should be in line with international standards, which suggest that 5 years' residence is the norm to qualify for citizenship." (Individual)

A significant number of respondents indicated that the proposed time periods were appropriate or should be increased.

"Refugees and their families are fleeing persecution and need more time to adjust to UK life or may make a choice to return if within that time the situation in their country changes." (Individual)

We believe that it is right that economic migrants seeking to progress through the system should demonstrate that they have worked and paid taxes over a period of time.

Given their strong connection with an existing British citizen or permanent resident, it is also right that **partners of British citizens or permanent residents should be able to progress to citizenship quicker than those who have entered under the economic and protection routes**.

Permanent residence

Significant numbers of respondents were in favour of reducing the time periods for migrants in all three routes on the path towards permanent residence. Some respondents highlighted their concern that this could have a negative effect on the UK economy as migrants would be deterred from coming to the UK.

"… economic migrants greatly contribute to the British economy and because Britain has very tight connections with other countries of the EU, for practical reasons these people should simply be allowed to "fully settle and integrate" in the UK as quickly as possible." (Individual).

We believe it is also right that **those who feel that they cannot become British but instead choose to become permanent residents should have to complete a longer period as a probationary citizen**. The deliberate intention of this proposal is to encourage more migrants to become British and we believe that this is a clear incentive that will help achieve that aim.

c) Family Route – subsisting relationships

The Green Paper asked specific questions concerning migrants entering under the family route and whether they should continue to demonstrate that they are self-sufficient or supported by their sponsor and that they remain in a subsisting relationship with the original sponsor in order to progress through the stages.

The majority of respondents supported this proposal for migrants progressing towards citizenship or permanent residence.

"Since the main reason for spouses of British citizens being granted leave to remain in the UK is their relationship with said citizens, it's coherent to demand that such spouses demonstrate that the relationship is ongoing at all times during their stay, or to require them to leave the UK if the relationship is not subsisting." (Individual)

There was concern about the implications this requirement may have on families which naturally break down and in particular on the children of those families, and that to enforce this requirement may be an infringement of human rights.

"Given the probability that they are settled in the UK and that human nature is unpredictable in the event of divorce then there should be a possibility to gain citizenship unless it's clear that there was pre meditation. Also in the event of death of the spouse then citizenship should be granted automatically." (Individual)

We believe that it is right that the entitlement to progress under this route should be dependent on the original relationship which led to a grant of leave to enter being made still being in existence.

We propose to retain the current provisions for foreign born partners who are victims of domestic violence or whose partner has died during the temporary residence or probationary citizenship stage. Partners in this situation will be allowed to progress directly to permanent residence.

d) Obeying the law

In relation to obeying the law, we consulted on the following proposals:

- To refuse migrants the right to progress towards citizenship where a migrant has been to prison.
- To slow down the path to citizenship where a migrant has committed an offence resulting in a non-custodial sentence.
- To consider what sanctions should apply to parents of children who commit crimes.

The Green Paper set out our clear expectation that those who come to the UK should respect British values and obey the law. Criminal behaviour will have consequences for a migrant's journey through to citizenship. Responses to the consultation were broadly favourable towards this approach.

The consultation highlighted strong support for penalising offenders who go to prison. The majority indicated that progression should be stopped. We agree. **Therefore we will stop any migrant from progressing towards citizenship if they have received a custodial sentence, and remove them from the UK[3].**

We further proposed that there should be consequences for those involved in minor criminality. Again the majority of people who responded to the Green Paper consultation were in favour of our proposal to slow down a migrant's progression to permanent residence or citizenship.

Concerns were expressed that the proposals to penalise individuals on the basis of custodial and non-custodial offenders should not be absolute.

"It depends on the crime. Very serious crimes should completely stop the migrant's progression (murder, rape, drug dealing etc). Less serious custodial crimes should slow down the progression (unless they are numerous, in which case they should stop it). Individual non-custodial crimes should not have an effect, while numerous non-custodial crimes should slow down progression." (Individual)

"This depends on the nature of the crime. If this crime is about terrorists activities then the answer is stop their progression. But individual cases should be assessed depending on the type and nature of the crime." (Organisation)

We believe we should be clear: even minor criminality will have consequences. Therefore **we will slow down the progress through the system by one year for all individuals convicted of crime resulting in a non-custodial sentence** unless there are truly exceptional circumstances which lead the Secretary of State to decide that slowing down would not be appropriate in a particular case. We will consult on whether a more sophisticated framework of guidance is needed to guide the use of the Secretary of State's discretion. We would welcome views on this.

There was some support for slowing down or stopping a parent's progression towards citizenship on the basis of their child's criminality, with respondents highlighting their views that a child's behaviour is the responsibility of the parent.

[3] Subject to our obligations under the Refugee Convention and ECHR, and subject to the provisions of the Rehabilitation of Offenders Act 1974.

"Parents are responsible for their children's actions. For initial offences the process should be slowed down. For parents of children who continue to commit criminal offences, the process should be stopped". (Individual)

However, a significant number of respondents raised concerns about the practicality and fairness of such an approach.

"Why should parents be penalised for crimes committed by their children? Everyone should be treated as an individual." (Individual)

We do believe there is some value in supporting, and where necessary challenging, parents whose children offend. However we recognise that there are sensitive issues which we need to consider carefully before proceeding. **We will therefore establish a cross-Government working group to determine how to connect our proposals with other Government sanctions on youth crime.**

e) Active citizenship

This Government promotes active citizenship for young people: citizenship was introduced as a compulsory curriculum subject in 2002. We also want to encourage migrants to undertake active citizenship.

We want migrants who wish to make Britain their long term home to integrate fully into our society. And we want to reward migrants who make an effort to be active citizens with easier access to citizenship. We asked whether this was a good idea, whether it should be a mandatory requirement, and what sorts of activities could count towards meeting this requirement.

Those respondents who supported the proposal emphasised that it could be a very useful way to improve integration of migrants:

"Intrinsically if supported and well organised, programmes of volunteering and work placements can indeed be very useful as a tool in terms of integration and work experience in the UK. They provide a purposeful activity, opportunities to speak English, meet people from different cultures and feel valued. However, this does need to be organised and structured and also needs to take into account issues of equality in terms of the possible impact on refugees who are unable to take up active citizenship through reasons of incapacity, mental health etc." (Organisation)

There was also support for the examples of activities that could count as active citizenship given in the Green Paper – such as volunteering with a recognised organisation or serving on community bodies – although slightly fewer supported activities which may involve short periods overseas supporting our international development activities. We also received some further helpful ideas about the sorts of activities which could demonstrate active citizenship, including activities to improve the environment, community projects and assisting less able members of the community.

Most respondents highlighted the practicalities involved in making this proposal work. Key issues included how we would conduct an objective assessment of whether our test was met and how we would safeguard the system against abuse. The impacts on voluntary organisations, such as charities, who may be responsible for providing opportunities to demonstrate active citizenship to potentially large numbers of migrants, was also raised as a concern.

Others were concerned that it would be difficult for those with particular work and family commitments to find the time to undertake activities. Some felt that, through working, migrants were already demonstrating their active involvement in the community and should not be required to do more in order to speed up their progress. There were further concerns that the proposals may discriminate against certain ethnic groups, and in particular women from certain ethnic groups, who may be limited to the choice of activities which they could undertake. We also received criticism for suggesting that migrants should do more than existing British citizens.

"It is a positive move to encourage all members of society to volunteer. However very few people find the time to do this, particularly when working full time. For new migrants, they will be under a great deal of pressure to try to adapt to living in a

new country, working full time, paying taxes, and possible raising children, perhaps at the same time trying to learn English." (Individual)

"Migrants would face particular constraints in identifying and participating in voluntary activities of the kind contemplated, while seeking to earn a living and/ or maintain a family in an initially unfamiliar society. These effects would in all probability be differentiated, with certain nationalities and ethnic groups finding it harder to meet the standards, while some women and less wealthy migrants could be expected to be particularly disadvantaged." (Organisation)

We accept there are considerable practical issues to resolve to ensure the proposal can operate effectively. But we remain of the view that this is a very positive reward for migrants who integrate into British life. It is not compulsory. It is simply incentivising an outlook and attitude which we think is positive for Britain. Just as we do today encourage our young people to become active citizens, so too should we encourage our migrants.

The majority of respondents did not support the idea of making active citizenship a mandatory requirement. We agree and our proposal will remain that **active citizenship will be a means to speed up progress and not a mandatory requirement for citizenship**.

We believe it is right that people should be able to demonstrate active citizenship at any point in their journey. This will allow migrants to plan activities better in line with work and family commitments. We also want to ensure that we permit a wide range of activities to ensure migrants can use their particular skills and interests.

Having settled the principle, we think there is more to do to assess the level of commitment we should expect from migrants. In particular, we will want to spend time designing a light-touch regime that is safe against potential abuse.

We will therefore establish a design group, including representatives from local government and the third sector to help us identify the most effective and practical way of implementing this proposal. The design group will identify proposals for the range of activities, the level of commitment and the most appropriate way we can verify that activities have taken place. We will establish the design group over the summer.

We will include provision in the draft (partial) Immigration and Citizenship Bill to enable the journey to citizenship to be speeded up where this requirement is demonstrated, but will not enforce active citizenship as a mandatory requirement.

2.3 ACCESS TO BENEFITS AND SERVICES

2.3.1 The key proposals:

- Migrants in the temporary residence and probationary citizenship categories will have no access to mainstream benefits, social assistance, local authority housing or homelessness assistance, subject to our international obligations.
- Migrants will continue to be required to send their children to school. Access to Further Education and Higher Education at the 'Home Rate' will continue to be restricted to permanent residents and British citizens, however we will allow access to ESOL courses at the 'Home Rate' to probationary citizens.
- We will use the forthcoming Immigration and Citizenship Bill to clarify the complex legislation relating to access to benefits for foreign nationals.
- We will require newcomers to contribute a little extra financially to help the UK manage the transitional impacts of migration
- The fund will be tens of millions of pounds, raised through increases to certain immigration fees and operating from April 2009

2.3.2 THE CONSULTATION

It has been a long standing policy that those entering under work or family routes should be expected to support themselves without being able to access social security benefits or local authority housing. This supports the clear public view that migrants should be making an economic contribution and not become a burden on the state. We proposed that this policy should be strengthened and clarified so that everyone is clear about which benefits and services can be accessed by migrants at each stage of the process; and simplify the complex existing legislation to address this.

We asked whether probationary citizens should have access to benefits in addition to those based on National Insurance contributions; and at what stage of the process migrants should have access to Further and Higher Education at the 'Home Rate' rather than the more expensive 'Overseas Rate'.

We also proposed to require newcomers to contribute a little extra financially to help the UK manage the transitional impacts of migration, which would allow us to release limited amounts of money quickly and responsively and help local service providers deal with the short-term pressures resulting from migration. We proposed that the money would be raised through increases to certain immigration applications.

2.3.3 ACCESS TO BENEFITS AND SERVICES

a) Access to benefits

Refugees and those granted humanitarian protection will continue to be entitled to all benefits and services, including access to Further Education at home student fee rates, subject to meeting the relevant requirements. In view of the special circumstances that lead refugees to come to the UK and seek our protection, it is only right that this group of people (and those recognised as having a temporary need for our protection) should have full access to benefits whilst in the UK. This is in line with our commitments under international law.

Temporary Residents
Under the new system, migrants in the temporary residence category will have no access to non-contributory benefits, social assistance, local authority housing or homelessness assistance[4]. Limited exceptions to this will be where we are meeting our obligations under international agreements and international law.

Temporary residents will continue to have access to the NHS. And to a limited number of National Insurance based benefits, but only once they have paid for them.

As now, temporary residents will have no access to social assistance, social housing or homelessness assistance. Additionally we are, in the context of the forthcoming Immigration and Citizenship Bill, looking at how information on those here unlawfully, obtained by local authorities when dealing with applications for housing and homelessness assistance, might be shared with UKBA, so that appropriate action, including removal from the UK where appropriate, can be taken.

Probationary Citizens
We believe it is right that migrants continue to support themselves during this period and until such time as they become British citizens or permanent residents. This will reinforce the distinction between temporary and permanent migration.

Probationary citizens will not therefore be entitled to access non-contributory benefits, social assistance, local authority housing or homelessness assistance[5]. Those probationary citizens who are working will continue to have access to benefits based on National Insurance contributions, as they did in the temporary residence stage, subject to them fulfilling the eligibility criteria. Limited exceptions to this general position will be where we are meeting our commitments under international agreements and international law.

Some respondents to the consultation highlighted significant concerns about continued restrictions on access to benefits at the probationary citizenship stage. A number stated that it is unfair if migrants have contributed 'financially and otherwise' for five years. The 'contribution' mentioned by respondents was not limited to financial contributions, but also encompassed individuals' contribution to society.

"These individuals will, by definition, have been contributing to UK society, both financially and otherwise, for 5 years. Excluding them from benefits is unfair." (Individual)

However, others expressed support for the continued restriction of access to benefits for temporary residents and probationary citizens.

"I think it is reasonable to expect immigrants to be self-supporting, and not to rely upon the state for benefits." (Individual)

[4] Subject to certain limited exceptions, primarily to meet our international obligations.

[5] Subject to certain limited exceptions, primarily to meet our international obligations.

Respondents also highlighted their concern that allowing access to additional benefits would create an attractive proposition to migrants, leading to 'abuse' of the benefits system, and that reserving full access to benefits for British citizens was the best way to safeguard against this abuse.

"I think benefits (other than what we pay into) should be reserved for British citizens only." (Individual)

Our position is that it is right that **full access to benefits should be reserved for British citizens and permanent residents**. Only once a migrant has reached the final stage of the journey to citizenship can they be said to have earned the right to this.

British citizens and permanent residents
Once migrants have progressed through the system and met the requirements to become either a British citizen or a permanent resident it is right that they are then entitled to access all benefits and services.

b) Access to Education

Like everyone else, **migrants in the temporary residence and probationary citizenship categories will be required to send their children to school**. However, access to Higher Education will only be available to temporary residents and their dependants at the 'overseas rate' and provided they meet the entry requirements of the individual college or higher education institution.

However, we consider it is right to also allow access to ESOL further education[6] courses at the 'home rate' (i.e. subject to the same fees as a British national). This will enable migrants at this stage to acquire the skills they need in order to support their continued journey to either British citizenship or permanent residence and would be in line with the current Department for Innovations, Universities and Schools (DIUS) consultation on focusing ESOL more effectively on community cohesion.

Higher education[7] at the 'home rate', will therefore continue to be accessible only when a migrant becomes a British citizen or permanent resident.

We are continuing to discuss with the Devolved Administrations the precise way this will operate in Scotland, Northern Ireland and Wales.

Respondents to the consultation expressed concerns about any restriction on access to education, highlighting the benefits of education to the economy, the individual and society as a whole.

"Education is one of the pillars of UK life. Making it available allows the best chance of gaining inclusion." (Individual)

We agree on the benefits of education. That is why migrants will continue to be required to send their children to school like everyone else. However **we think it is right that access to Higher Education be restricted to those who have earned their right to this by progressing to permanent residence or British citizenship.**

c) Access to healthcare

The Department of Health is currently, with Home Office support, undertaking a review of the rules governing access to healthcare, with a view to making them clearer for both the public and practitioners. The findings of this review will go out to public consultation later this year.

d) Simplification of the law

Our position is therefore that the privileges of Britain must be earned.

We wish to translate this approach into law. Due to the range of Government Departments responsible, devolution and the effects of international agreements,

[6] 'Further education' is the type of learning or training that takes place after the age of 16, but before degree level.

[7] 'Higher education' is the type of learning that generally takes place after the age of 18. It is of a higher academic standard than A-level or National Vocational Qualification Level 3.

there is a complex set of rules reflecting different terminology, which can make it difficult for decision makers to operate the system effectively and for migrants and the public to understand the restrictions.

We are therefore working with other Departments to review all legislation governing migrants' access to benefits and services to ensure it is as clear and consistent as possible. This work will result in provisions on access to benefits and services being included in the forthcoming Immigration and Citizenship Bill.

As part of this process, we will establish a cross-Government working group to review the various terms used by different Departments to establish whether a person is 'resident' in the UK for the purpose of qualifying for access to certain benefits and services. A number of different legal terms are currently used, including 'ordinarily resident', 'habitually resident' and 'lawfully present'. Our objective will be to ensure that these terms operate and interact with each other as logically, simply, and effectively as possible; and in a way that meets our policy objective of ensuring that migrants can only access benefits and services where they have 'earned' the right to them.

2.3.4 ASKING NEWCOMERS TO PAY A LITTLE MORE

We asked whether migrants should pay an additional charge on top of existing application fees in order to create a fund which would be used to alleviate the short-term pressures on local public services that migration can bring.

A number of respondents to the consultation expressed support for this proposal, agreeing that it was right to provide money to address the transitional pressure of migration.

"I have seen the effects of pressures on services caused by migration and money does need to be made available to alleviate those pressures." (Individual)

At the same time a significant number of respondents expressed concerns about the proposed fund. Some highlighted the fact that migrants are, on average, net contributors to the economy, and as such expressed concern at the suggestion that migrants be required to contribute extra for a fund to manage the transitional impact of migration; others suggested that to require migrants to contribute to the fund would be unfair or discriminatory.

"Migrants are already net contributors and pay more taxes on average and so already pay for the public services they use. The fact that some migrants have more dependants and so contribute less is not a justification to make all non-EEA migrants pay an additional charge."

We recognise that migrants overall make a positive economic contribution, but they also use public services. And with increasingly mobile migrant populations, communities in some regions experience high and rapidly-changing transitional pressures on some public services such as education and healthcare.

Some migrants make claims on public services as soon as they arrive and before they have contributed significantly to the cost of these services. At the same time public antipathy to migration can be driven by a perception of unfairness, in that some migrants are perceived to receive more from the state than they contribute – and this can adversely affect community cohesion.

This calls for public service providers to respond quickly and innovatively to this challenge. The Government has provided a fair settlement for local government, and many are already responding to this challenge; but with a relatively small amount of additional money we could alleviate some of the short-term pressures.

As such we do consider that it would be appropriate to require migrants to contribute to a fund which will allow us to release limited amounts of money quickly and responsively to address these short term pressures.

We will therefore create a fund to manage the transitional impact of migration. The fund will be tens of millions of pounds and will operate from April 2009.

How will the money from the fund be distributed?
The fund is designed to assist local service providers in dealing with the short-term pressures of migration. We believe it is essential that those who best understand where local pressures are occurring should take the decisions on how the fund should be used. As a result, we are proposing that the fund would be allocated on a regional basis through the Government Offices for the Regions. We envisage that each region would receive a share of the fund with those experiencing higher levels of inward international migration receiving proportionately more. All local service providers, including the police, local authorities and Primary Care Trusts, will be eligible to benefit from the fund. As the fund will operate from April 2009 we will use the ONS sub-national projection figures published in June this year to ensure the most up-to-date, robust and consistent data available on migration is used in allocating this fund. We will also pressure test this approach with the Migration Impacts Forum.

The Government Offices will prioritise the allocation of funds to specific projects or services based on a range of factors. These would include the key issues identified by local service providers. We would expect the Government Office to use existing fora with knowledge of the impacts of migration, such as Local Strategic Partnerships, to decide how best a fund of this sort can help address specific problems. We want to ensure that communities benefit from the fund. The impacts of migration can be felt in many ways. For example, there can be impacts on schools owing to the number of different languages spoken. A limited additional amount of money from the fund could assist with additional language support assistants to minimise the impact on classes. The fund could also enable the recruitment of Police Community Support Officers from migrant communities, or provide a pool of interpreters across local services. Local authorities could use the fund to enforce housing regulations to address cases of overcrowding in housing used by migrants which has in turn led to reports of community tensions.

In addition we envisage the fund could be of particular help with projects to improve community safety, ensuring migrants are aware of the rules and combating myths. We do not want to be overly prescriptive - it is essential that local services have an opportunity to shape the use of the fund in their local area.

We will continue to discuss the practicalities of the fund with the police, local authorities and other local service providers prior to commencement of the fund in April 2009.

How will the contributions be collected?

The contributions will be collected through increases to certain immigration fees, and as such will not apply to EEA nationals or refugees. We will finalise the precise charging arrangements for the fund shortly.

We want to ensure that the charging system for the fund is easy to explain, understand and administer. Therefore **we will require migrants to make a contribution each time they make an immigration application**. This will spread the contribution out over several payments over a period of years, and at the same time ensure that all contributing migrants, whether they progress on the path to citizenship or not, will pay in to the fund.

Migrants who bring dependants will pay an additional fee per dependant. This recognises the fact that those who bring dependants to the UK tend to consume more in public services than those who do not.

We aim for the fund to operate from April 2009. We will set out full details of the charging strategy as part of the overall review of UKBA charging for the financial year 2009/10. This outcome of this review will be published in the first quarter of 2009.

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