

Earlier this month, we submitted our response to the Home Office’s consultation entitled “A Fairer Pathway to Settlement: A statement and accompanying consultation on earned settlement”, in short called the “earned settlement” consultation. Our response was based on interviews and conversations with team members, people with experience of migration, and research and statements created by other civil society groups. We are deeply concerned about the impacts of the UK government’s proposals and the discriminatory immigration system they would entail.

What are the proposals?

The full consultation paper can be found [here](#). The proposed changes are sweeping and potentially confusing, so it’s important to understand how they may affect you. Helpful guides have been put out by [Free Movement](#), [JustRight Scotland](#), and [Migration Yorkshire](#).

There are a few groups who will not be affected by these changes, including people who already have indefinite leave to remain (ILR), those on select visa routes including the EU Settlement Scheme and the British Nationals Overseas visa. Other groups who have exemptions from existing settlement requirements, including some survivors of domestic abuse, bereaved partners, and children who grew up without regularised status in the UK, were not considered in this consultation, although it was suggested changes may be made to those settlement pathways in the future. All other people on a settlement pathway in the UK – workers, students, refugees, families, and so on – will be affected. The Home Office also has no plans to introduce transitional arrangements. That means that even if you have been living in the UK for years, following a pathway to settlement you had been promised, you may suddenly have a much longer wait and stricter requirements to meet.

The government’s proposals are defined by what they call “four core pillars”: Character, Integration, Residence, and Contribution. By default, most people will have a baseline qualifying period of 10 years. This means that people will have to wait for ten years of uncertainty before being able to apply for settlement, already a significant increase from the 5-year routes most people are on now. This will then have years added or taken away based on certain “contribution” criteria – for example, those who earn £125,140 annually over three years (over three times the median salary in Scotland) will have their wait cut by seven years, while those who have claimed benefits to which they are entitled may have a ten year extension on their wait. The baseline qualifying criteria will also be made stricter based on ability to pass the Life in the UK test, English language requirements, and requiring no criminal record. Finally, under the new system, all members of a family will have to “earn” settlement on their own, rather

than being linked to a primary applicant. This means a single family might have years or decades of difference in waiting time, increasing costs and complications.

GREC's perspective

In our view, these proposed changes are discriminatory, ineffective, and unfair. The UK government should be looking to end the legacy of the hostile environment, not attempting to score political points by making life harder for those it deems easy targets. The proposals explicitly foster inequality and pit migrants against each other by making life easier for a select few with wealth and privilege and much harder for everyone else. At GREC, we believe all people who come to the UK deserve fair treatment and a decent life. Proposals such as implementing No Recourse to Public Funds (NRPF) conditions at settlement and punishments for claiming benefits or incurring NHS debt do not take into account how precarious life is for many people in the UK, especially migrants. These changes will force many more people into deprivation by design.

The government's aim to increase "integration" will not be supported by these changes either. Stability is a prerequisite for integration, not a consequence of it. Without having security in what your future holds and a safety net to support you, it would be unreasonable to expect anyone to feel an equal part of their community. At GREC, we often say that integration goes two ways. If the government wants migrants to become part of the fabric of UK communities, it must address the actual barriers to integration: support for language learning, employment opportunities, and an atmosphere of mutual respect. Such initiatives, codesigned and coproduced by migrant and local communities, are the most effective ways to promote community cohesion.

The other main reason given by the government for these changes is the cohort of people who came to the UK three to five years ago and who will soon be eligible for ILR. Changing the rules on people who made their decision to come to the UK based on a five-year wait for settlement and have met every condition required of them is arbitrary, punitive, and unjustifiable.

As well as the ethical unfairness and instrumental ineffectiveness, the changes to ILR will have a significant impact on GREC's work. Because living without settled status is so precarious, and these changes so sudden and harmful, many people are likely to need significant mental health support. Even more people will require casework support as their status is thrown into uncertainty. The government appears to be planning to offload the costs of overhauling the immigration rules onto migrants and third sector organisations like GREC, without putting in place any support for building the capacity needed to cope with the changes. We also anticipate the proposal for

migrants to be able to reduce their qualifying period by volunteering, ostensibly intended to help organisations like ourselves, to have accompanying administrative and ethical issues. Having to track and certify the hours worked by all our volunteers will be difficult, especially if we anticipate a large cohort of new volunteers. Even more worryingly, the immigration reforms create a coercive incentive for volunteering, meaning it is no longer time freely given. We rely on our volunteers' commitment to be motivated by the role they are performing with us. If the threat of an extended qualifying period is constantly hanging over their heads, such work is no longer voluntary: it is coercive. This also introduces safeguarding risks and uncertainties, as migrant volunteers will be in a much more vulnerable situation and exposed to potential exploitation.

The consultation

The consultation itself has several structural issues which impede full democratic engagement. Many questions are confusingly worded or contain double negatives, complicating otherwise simple concepts. Clear, simple wording allows people to better understand the questions and express their opinion, therefore making data analysis more confident and the consultation more useful. The majority of questions are closed, leaving very little room for elaboration or nuance. Even those questions which are open-ended have a 200 word limit, meaning responses are largely restricted to being surface-level highlights, unable to deeply consider the data and conversations informing our perspective or the potential implications of the policy changes.

The closed questions also constrain the possibility of responses: for example, when asking "To what extent do you agree or disagree that resettled refugees should have a 10-year route to settlement?", it is unclear whether the alternative would be the existing 5-year route, or the planned 20-year route for refugees on the "core protection" route. We believe that, at minimum, the existing period should not be extended, and the government should be moving towards more inclusive, human rights-based approaches to refugee settlement. However, this perspective cannot be communicated within the bounds of the consultation. For this reason, we have answered "Don't know/Prefer not to say" to many questions on proposed reductions. We do not seek to legitimise hierarchical discrimination between migrants by rewarding only those who have social and financial capital needed to meet the Home Office's conditions. Instead, all migrants should have access to the support needed to become equal, valued members of UK society.

Over the following pages are written our full submission to the Home Office's consultation.

Background

1. Are you responding to this survey as an individual or as a representative of an organisation?
 - [Organisation]

2. [If organisation] Are you responding on behalf of an organisation based in the UK?
 - [Yes]

3. [If organisation] Which of the following best describes your type of organisation?
 - [Third sector / Voluntary]

4. [If organisation] Does your organisation provide immigration advice or support services?
 - [Yes]

5. [If organisation based in the UK] Has your organisation ever sponsored employees to work in the UK on a visa?
 - [No – we have never sponsored employees]

6. [If organisation based in the UK] Does your organisation intend to sponsor employees to work in the UK on a visa in the future?
 - [No]

7. [If organisation based in the UK] How many people work for your organisation across the UK as a whole?
 - 10-49

8. [If organisation currently sponsors employees to work in the UK on a visa] How many employees are currently sponsored via a UK visa at your organisation?

9. [If organisation] Which of the following best describes the industry sector your organisation operates in?
 - [Other]

10. [If organisation based in the UK] In which part of the UK is your organisation mainly based?
 - Scotland

Earned Settlement

1. Overall, how clear do you find the proposed changes to the settlement framework?
 - [Somewhat clear]
2. [If unclear] Which aspects of the proposed changes to settlement are not clear?
 - [Other (please specify)]

While the structure of the proposals is clear, the details of its implementation are nebulous, risking many people who might fall through the cracks. For example, the proposed reduction to the qualifying period for contribution to the community is described as evidencing having "volunteered extensively". Without clear terms of what qualifies as "extensive", people may be at risk of exploitation for their unpaid work or having the contributions they have made go unrecognised because they were not deemed "extensive" enough. Furthermore, given the high volume of poor decisions made by Home Office officials and the difficulties in accessing advice and legal services, it is unclear how the Government intends to support migrants through these changes. Given the enormous upheaval the proposals will bring to both new migrants and established migrant communities, significant resources will need to be put into supporting people in navigating legal complexities and enjoying their economic, social, and cultural human rights. Without significant structural changes, many more vulnerable people will be put at risk of poverty, poor health and wellbeing, and unjust punishment.

3. Overall, to what extent do you agree or disagree with the proposed changes to the settlement framework?
 - [Strongly disagree]

Character

1. Do you have any comments on how 'Character' should be considered in relation to settlement?

The proposed use of Character as a criterion for settlement is inappropriate. The use of immigration law as a tool for punishment disregards both the devolution of criminal justice in Scotland and the principles of sentencing that ensure it is fair and proportionate. As Peter Billings argues in the Australian context, visa cancellation and removal for minor criminal offences

is effectively double punishment and an example of procedural injustice. By applying additional sanctions onto migrants with limited leave than to UK citizens, the Government fails the following principles published by the Scottish Sentencing Council:

- sentences should be no more severe than is necessary to achieve the appropriate purposes of sentencing in each case
- sentencers must have regard to any sentencing guidelines which are applicable
- people should be treated equally, without discrimination
- sentencing decisions should treat similar cases in a similar way, assisting consistency and predictability

Additionally, precluding people with criminal records from settling in the UK undermines the principle of rehabilitation. By signalling to people with convictions that they are unwelcome in the UK, the Government will not dissuade people from committing crimes; instead, it will only disincentivise desistance by making a secure, stable future unachievable.

Integration

1. What do you think about a 1-year reduction for applications who can demonstrate advanced English language ability (at C1 standard)?
 - [Don't know / prefer not to say]
2. How do you think integration should be assessed? (please select all that apply)
 - [In another way (please specify)]

As we argue in the following question, integration should not be assessed as a criteria for indefinite leave to remain. However, if integration is to be assessed, it must be done so in a person-centered and trauma-informed manner. Integration cannot be reduced to a one-directional ability to blend in or recite facts. The United Kingdom is enriched by its many cultures and histories, and any assessment of integration should recognise that. Disempowering individuals by making their cases conditional on good references by professionals, institutions, or British Nationals evokes archaic, hierarchical models of decision-making. Not only does this go against best practice in policy-making - for example, the Scottish Government lists 'Lived Experience and Participation' as one of their Equality Outcomes for 2025-2029 - but also works against integration by entrenching different levels of inclusion in the UK.

3. Do you have any further comments on how 'Integration' should be considered in relation to settlement?

Integration should not be assessed as a prerequisite for settlement because the stability that settlement brings is a precondition for integration. Without the sense of security and ability to plan for the future that settlement entails, it is very difficult to foster a sense of community belonging and inclusion. Especially when the government continues to tell migrants they are not welcome through hostile rhetoric and policies, integration is an unrealistic expectation. The proposed measures of integration serve to alienate many migrants instead of supporting them to engage with the cultures of the UK. If integration is the desired outcome of the Government, it would be better served by providing or funding support services for new migrants, simplifying complex systems, and promoting a welcoming atmosphere, rather than by wielding assessments as a tool of punishment. The Life in the UK test proposed also entrenches classed and racialised ideas about what counts as "British culture" and tests access to economic and cultural capital rather than "integration" in a meaningful sense. Even when considering a testimonial-based model, as we were told by one person with limited leave to remain, 'the challenges of survival don't give [migrants] the opportunity to pursue all these baselines'.

Contribution

1. Do you think the following groups should be exempt from the requirement to have earned above £12,750 for at least 3 to 5 years?

	Yes	No	Don't know/Prefer not to say
Those on maternity leave or long-term illness/disability	[X]		
Those in certain occupations with different pay arrangements (e.g. Ministers of Religion)	[X]		

2. Are there any other groups that you think should be exempt from the requirement to have earned above £12,750 for at least 3 to 5 years?
- Single parents
 - Dependants
 - Carers
 - Students
 - Refugees

3. To what extent do you agree or disagree that migrants who have worked in an occupation below RQF level 6 should have their standard qualifying period for settlement set at 15 years?

- [Strongly disagree]

4. To what extent do you agree or disagree that applicants who earn a taxable income above £50,270 should be eligible for a reduction in their time to settlement?

- [Don't know / prefer not to say]

5. What do you think about the proposed reductions for applicants based on their annual taxable income?

	The reduction doesn't go far enough (it should be longer)	The reduction is about right	The reduction goes too far (it should be shorter)	There should be no reduction for these applicants	Don't know / prefer not to say
<u>7-year reduction</u> for applicants who earn a taxable income above £125,140					[X]
<u>5-year reduction</u> for applicants who earn a taxable income above £50,270					[X]

6. Do you think those employed in a public service occupation (i.e. health and education occupations where going rates are based on national pay scales) should be eligible for a reduction in their qualifying period to settlement?

- [Yes]

7. What do you think about the proposed penalties for applicants claiming public funds?

	The penalty doesn't go far enough	The penalty	The penalty goes too far	There should be no penalty	Don't know / prefer

	(it should be longer)	is about right	(it should be shorter)	for these applicants	not to say
5-year penalty for applicants who claim public funds for <u>less than 12 months</u> during their route to settlement				[X]	
10-year penalty for applicants who claim public funds for <u>more than 12 months</u> during their route to settlement				[X]	

8. To what extent do you agree or disagree that once someone has been granted settlement in the UK they should be eligible to claim public funds (e.g. benefits and housing assistance)?
- [Strongly agree]
9. To what extent do you agree or disagree that giving back to the local community (e.g. by volunteering) should be considered as a contribution that can reduce the length of time required to qualify for settlement?
- [Neither agree nor disagree]
10. [If organisation] Does your organisation currently accept or manage volunteers
- [Yes]
11. [If organisation with volunteers] How easy or difficult do you think it would be for applicants to provide evidence of giving back to the community?
- [Somewhat difficult]
12. [If organisation with volunteers] Considering any potential benefits or challenges, what would be the overall impact of recognising giving back to the community as a contribution towards settlement for your organisation? Would this have...
- [A somewhat negative impact]

13. Do you have any further comments on how ‘Contributions’ should be considered in relation to settlement, including any potential benefits or challenges of recognising giving back to the community as a contribution towards settlement?

Volunteers make an invaluable contribution to our work. This contribution is predicated on their time being given freely and motivated by their commitment to the role. If volunteering hours were to entitle migrants to a reduction in their qualifying period, all volunteering from migrants would carry an implicit coercive quality. If stopping their work with us would mean risking adding three years to their wait for settlement, they no longer have a free choice to stop. If these proposals were implemented, we would want to allow as many avenues as possible for a reduction in the inhumane ten-year qualifying period, including through volunteering. However, such an avenue would be discriminatory and inaccessible to a wide range of groups, including single parents, older people, and those living in rural areas. Even for not-yet-disabled workers, volunteering can be an unreasonable ask: we were told by one migrant, 'Immigrants work a lot; they barely have time [for activities outwith work]'. Measuring contribution to the community will be difficult in many cases, as "hours worked" may not be a useful metric, certifying those hours is an administrative burden, and it may be impossible to retroactively certify contributions made in years past.

Residence

1. Which of the following penalties do you think should be applied to each of the following applicants?

	A penalty of 20 years	A penalty of 10 years	A penalty of 5 years	There should be no penalty for these applicants	Don't know / prefer not to say
Applicants who arrived in the UK illegally				[X]	
Applicants who initially entered the UK on a temporary visit visa (typically this visa permits stays of up to 6 months for tourism, visiting family or friends or short-term business activities)				[X]	

Applicants who have overstayed their original visa by 6 months or more				[X]	
--	--	--	--	-----	--

2. Do you have any further comments on how 'Residence' should be considered in relation to settlement?

The proposed penalties based on Residence will have a profound, discriminatory effect on some of the most vulnerable migrant groups. The dearth of safe, accessible routes for claiming asylum in the UK is a direct contributor to the use of small boats. Article 31 of the 1951 Refugee Convention states plainly that signatories 'shall not impose penalties, on account of their illegal entry or presence, on refugees who... enter or are present in their territory without authorization'. The ability to reach safety by irregular means is an essential right for all people. By imposing penalties on people who have arrived on temporary visit visas, the Government will punish even refugees who have arrived by recognised, legal means. Furthermore, a significant number of people who enter the UK by irregular means are survivors of trafficking. Imposing penalties on people who have faced such traumas is cruel and purposeless. Those who have fled their homes to find protection or been subject to coercive movement need stability as soon as possible. The proposed qualifying period penalties will trap a significant number of people in a decades-long environment of insecurity and uncertainty.

Eligibility and Equalities

1. Where the standard qualifying period is proposed to increase from 5 to 10 years, which option for you think should apply to each of the following visa holder groups?

	Reduction (of 5 or 7 years from the standard qualifying period of 10 years)	Apply full change (standard qualifying period of 10 years)	Don't know / prefer not to say
Applicants who currently require 3 years continuous residence under the Global Talent route			[X]

Applicants who currently require 5 continuous years residence under the Global Talent route			[X]
Applicants who currently require 3 continuous years residence under the Innovator Founder route			[X]
Applicants on humanitarian visa routes (e.g. Syrian, Afghan)			[X]

2. To what extent do you agree or disagree that dependants of migrants who hold Global Talent or Innovator Founder visa status should retain their current 5-year path to settlement?

- [Don't know / prefer not to say]

3. To what extent do you agree or disagree that there should not be transitional arrangements for those already on a pathway to settlement?

- Strongly disagree

4. Do you think the following vulnerable groups should retain their current arrangements and be exempt from the proposed settlement changes?

	Yes	No	Don't know / prefer not to say
Victims of domestic violence and abuse	[X]		
Bereaved partners	[X]		
Children and young adults who grew up in the UK without immigration status	[X]		
Adults with long-term care needs	[X]		

5. Are there any other vulnerable groups that you think should be considered as part of this consultation?

- Refugees/people seeking asylum
- Disabled people
- Survivors of trafficking

- d. Young people
- e. Carers

6. Do you think the following Armed Forces groups should retain their current time period to settlement or should further reductions be available to this group?

	Retain current arrangements	Further reductions should be applied	Don't know / prefer not to say
Members of HM Armed Forces			[X]
Immediate family members of HM Armed Forces			[X]

7. To what extent do you agree or disagree that dependant partners of migrants should earn settlement in their own right?

- [Strongly Disagree]

8. To what extent do you agree or disagree that dependant children of migrants should earn settlement in their own right? (with employment-related requirements waived if they were admitted as a dependant under 18)

- [Strongly Disagree]

9. To what extent do you agree or disagree that resettled refugees should have a 10-year route to settlement? Resettled refugees are those who have been granted protection and moved to the UK through official resettlement programmes.

- [Strongly Disagree]

10. [If organisation providing immigration advice or support services] As an organisation which provides immigration advice or support services, are there any migrant groups in particular that you think will face barriers in demonstrating their eligibility or meeting new requirements for settlement?

- Refugees and survivors of trafficking
- Survivors of domestic abuse
- Part-time and underemployed workers
- Disabled people and carers
- Older people, people with low digital literacy, and non-native English speakers

11. [If organisation providing immigration advice or support services] What are the main barriers that you think this group / these groups will face? (please select all that apply)

	Lack of documentation	Complexity of requirements	Language barriers	Financial barriers	Health-related barriers	Limited access to advice/support
Refugees and survivors of trafficking	[X]	[X]	[X]	[X]		[X]
Survivors of domestic abuse	[X]	[X]	[X]	[X]		[X]
Part-time and underemployed workers		[X]	[X]	[X]		[X]
Disabled people and carers		[X]	[X]	[X]	[X]	[X]
Older people, people with low digital literacy, and non-native English speakers		[X]	[X]	[X]	[X]	[X]

Do you have any further comments on how specific should be considered in relation to settlement? We particularly welcome views on how the proposed changes could affect children in the UK.

Intersecting axes of identity and experience must be considered when designing immigration policy. For example, the lack of recourse to public funds means many migrants are unable to submit paperwork evidencing their disability, shutting off support to which they are entitled. Without careful consideration of how each change might affect groups in different ways using a human rights-based approach, the new immigration rules are likely to have unintended consequences on vulnerable people.

If demonstrating eligibility requires online engagement, such as taking the Life in the UK test or submitting evidence through an online portal, those with

low digital literacy are likely to be left behind. Funding and support should be provided to prevent digital skills being a barrier to inclusion.

Discrimination in hiring practices means that some migrants may be unable to work in jobs for which they are qualified. Our work with migrants suggests that overseas qualifications and experience are often undervalued by prospective employers, and census data from North East Scotland indicates that Black Africans have both the highest average level of education and the lowest average level of employment. The use of income as a metric for contribution is therefore unfair to these groups.

Impact on organisations

1. [If organisation] To what extent, if at all, do you think the proposed reforms will impact your organisation in the following ways?

	Very positive impact	Somewhat positive impact	No impact	Somewhat negative impact	Very negative impact	Not applicable	Don't know / prefer not to say
Ability to attract suitable candidates				[X]			
Ability to retain existing migrant workers				[X]			
Workforce planning						[X]	
Administrative burden				[X]			

Questions 2-5 are not applicable.

6. [If organisation] Do you have any further comments on the potential impacts on your organisation in relation to the proposed changes to settlement?

The proposed changes will have significant impacts on our capacity and compliance. While we provide casework and support for migrants, we are not certified to provide immigration advice. The proposed expansion of the immigration rules to encompass more aspects of an applicant's life will cast confusion on our ability to support them; for example, given the implications

on reducing the qualifying period that volunteering could have, it is unclear if we could advise people on volunteering opportunities. Such a drastic change applied to so many people with no transitional arrangement also threatens to overwhelm our casework capacity, as a huge number of people will simultaneously need support to understand the changes. This also extends to our counselling and mental health support service. As greatly extended qualifying periods leave people in what Monish Bhatia calls a 'traumatic temporality', many of those people will need mental health support. This will put a significant strain on our capacity.