

# Refugee Council

## policy response



## Refugee Council response to the UK Border Agency Consultation *Earning the right to stay: A new points test for citizenship*

October 2009

### About the Refugee Council

The Refugee Council is a human rights charity, independent of government, which works to ensure that refugees are given the protection they need, that they are treated with respect and understanding, and that they have the same rights, opportunities and responsibilities as other members of our society. We achieve this mission by:

- supporting refugees and working with them as they build a new life
- speaking up for refugees and ensuring that refugees themselves have a strong voice in all areas of UK life
- building links with people from across our society to increase mutual understanding of refugees
- making the case for a fair and just asylum system
- taking a leading role in helping to build up a vibrant, sustainable and successful refugee sector in the UK and internationally

### Introduction and summary of Refugee Council concerns

The Refugee Council believes that the proposals outlined in this consultation will act as a further barrier to integration for refugees who wish to become citizens. In combination with the introduction of limited leave and active review in 2005 and the requirements in the Borders, Citizenship and Immigration Act 2009, we are concerned that these proposals misguidedly attempt to include refugees in a system designed for other types of migrant.

Refugees have been granted status because they are recognised as being in need of international protection and have been forced to flee their homes. They cannot choose whether or not they return to their country while they continue to be at risk. It is not fair to expect people who have endured prolonged uncertainty during the asylum determination process to face further hurdles and uncertainty in the already long journey to permanent settlement.

British Refugee Council, (commonly called the Refugee Council) is a company limited by guarantee registered in England and Wales, [No 2727514] and a registered charity, [No 1014576].

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Refugees should be granted permanent status, as they were prior to 2005, and then those who want to apply for citizenship should be supported to do so. Barriers such as cost and access to free or low cost language learning should be addressed instead of introducing more complex and off-putting points based tests.

The Refugee Council's broad concerns are set out in our response to *The Path to Citizenship: next steps in reforming the immigration system* May 2008, and in our briefings on the Borders, Citizenship and Immigration Act available on our website (see [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk))

Our responses to this consultation are limited to those questions relevant to refugees and asylum seekers, in line with our remit.

**Q1. Do you agree that we should operate a flexible system that allows us to control the number of migrants progressing to probationary citizenship?**

No

We do not agree that refugees should be included in a system that controls or caps the number of migrants or applies a points-based test to their citizenship applications. The proposals as drafted introduce a concession that refugees will automatically secure enough points to progress to citizenship (see para. 2.9). There is no evidence that consideration has been given to how the number of refugees likely to be eligible to apply for citizenship would affect future decisions about the total number of places available for citizenship applications from all migrants. By definition, refugees are not part of the managed migration agenda; the numbers who assert their right to seek asylum and the need to flee persecution cannot be controlled by any national government.

If a political decision were made in the future to reduce the number of places to progress to citizenship, yet there were significant numbers of refugees passing from limited leave into probationary citizenship, there may be more eligible refugees than citizenship 'vacancies', or a great proportion of the available citizenship places could be taken up by refugees. Given that a significant proportion of refugee arrivals will always be spontaneous, and that the proposal is that refugees would automatically achieve enough points to pass into probationary citizenship, it would be better to remove refugees from the equation by granting permanent residence on grant of status.

We are concerned that a points-based approach to citizenship will be unfair and misleading as reasonable expectation about progressing to citizenship could be denied if a decision was made to reduce the places available. The system will be bureaucratic and is likely to lack transparency and could therefore have a negative knock-on impact on community relations.

**Q2. Do you agree that a points based test should be introduced in the application process for permanent settlement?**

No

We are concerned that the citizenship process is increasingly protracted and complicated. Many refugees want to become citizens but struggle to pass the current tests and find the money to pay for the application. As stated above, we do not think it is appropriate to include refugees in a points-based process for citizenship, even if they are automatically granted enough points to progress to probationary citizenship.

We are particularly concerned about the relationship between points based citizenship proposals and the policy of active review for refugee status, introduced in 2005. If a future decision was made that a significant and non-temporary change had taken place in a particular country, refugees may be judged not to have ongoing protection needs and would therefore not receive points for protection in the citizenship process.

**Q3. Do you agree that the test should be applied before entry to the probationary citizenship stage?**

No

There should be no 'points test' for citizenship.

**Q4. Which attributes should attract points? (Please select all that apply)**

**Earning potential**

**Special artistic, scientific or literary merit**

**Qualification**

**Shortage occupation**

**English language**

**Location**

**Other (please specify)**

None, as above.

**Q5. Which of these attributes is most important? (Please number three in order of importance, 1-3)**

**Earning potential**

**Special artistic, scientific or literary merit**

**Qualification**

**Shortage occupation**

**English language**

**Location**

**Other (as specified in Q4)**

None, as above.

**Q6. Should points be deducted or penalties applied for failure to meet requirements for integration into British life?**

There should be no points test for citizenship. If a points based system is introduced, refugees should be exempt. We are very concerned that the wording of the consultation document implies that refugees could have points deducted, although they will automatically be awarded a certain number of points on the basis of ongoing protection needs. We think it is wrong in principle to seek to judge integration or adoption of British values in the course of citizenship applications. These things cannot be quantified in an objective way.

**Q7. If yes, for which attributes should points be deducted or penalties applied?**

N/A

**Q8. Do you think that the current Nationality Checking Service model can be successfully built upon to provide a 'check and send' service for Earned Citizenship?**

Possibly

We value the involvement of local authorities in supporting people to apply for citizenship and playing a lead role in cohesion and integration efforts. However, these unnecessary proposals would risk diverting scarce resources and energy from existing positive initiatives. We are concerned that local authorities and the voluntary sector will be unable to cope with the impact of the earned citizenship requirements, in particular regarding activity conditions introduced in the BCI Act 2009. As the Refugee Council has stated in briefings on the 2009 Act and elsewhere, the active citizenship provisions are unnecessary and burdensome. If a points-based approach to citizenship is implemented, we would be concerned that in combination with procedures for active citizenship due to be introduced in 2011, local authorities will be caught up in a bureaucratic and complex system to serve a political purpose of being seen to be tough on migration.

**Q9. Do you think it appropriate that local authorities perform an additional service around advice and co-ordination?**

Don't know

The consultation document provides little information about the proposed 'additional service around advice and coordination'. We would support local authorities building on current best practice to support citizenship applications and advice and information for refugees but do not think the points-based proposals make the best use of available resources (see above).

**Q10. Should we require applicants to meet English and Knowledge of Life requirements at both probationary citizenship and British citizenship stages?**

No

Refugees should be exempt from the English and Knowledge of Life requirements at the probationary citizenship stage. Without this concession, refugees who are unable to satisfy these requirements will be faced with successive periods of temporary leave. This is not acceptable for people who continue to have protection needs and who should be granted permanent settlement at the earliest opportunity. The English and Knowledge of Life requirements should only apply for refugees applying for British citizenship. We are pleased that the Department for Business, Innovation and Skills' new approach to English for Speakers of Other Languages (ESOL) includes refugees and those on the path to citizenship as priority learners. It is important that local authorities, in developing and implementing the local ESOL strategies, ensure provision for refugee learners.

**Q11. Should these two stages of testing be different based on information relevant at each stage? This would involve testing on new topics not currently tested, for example British history.**

No

We do not support the introduction of further tests during the citizenship process. There are alternative positive ways of supporting people to get to know each other, integrate and learn about the UK.

**Q12. Should this two-stage test require a higher standard of English for the second stage?**

No

We do not support the introduction of a second English language test for those who have previously completed ESOL with citizenship context.

**Q13. Do you think that mentoring schemes should be extended to cater for non-refugees?**

Don't know

Mentoring has become a core and valued part of the integration services available to refugees. Although it has been successful for refugees, applying it more widely to other migrants may be problematic. For example, the integration needs of migrants in the UK for primarily economic or marriage reasons will be very different. We would wish to see and comment on more detailed proposals concerning mentoring if they are forthcoming. There is considerable good practice in the refugee sector that could be drawn upon. Our experience of working in partnership with, and to support, refugees is that many people value information, guidance and support to help them to navigate their new life in the UK. The Refugee Council has been involved in delivery of orientation and tailored support for refugees through the Refugee Integration and Employment Service and the Gateway Protection Programme. We would be keen to share our experiences and evidence from this work.

**Q14. Do you think that orientation days for migrants should be introduced to encourage integration?**

Don't know (see answer above)

**Q15. Do you think that it should be compulsory for migrants to attend an orientation day?**

It is not clear from the consultation paper whether this proposal would include refugees. However, we would be concerned if anything compulsory was introduced as this would change the tone and value of any orientation exercise.

**Q16. Do you think that migrants should be awarded points towards probationary citizenship for attending an orientation day?**

No

There should be no points test for citizenship. It is unclear whether this proposal would affect refugees. We do not think it would be appropriate to link the orientation days with points towards probationary citizenship for refugees.

**Q17. Who do you think orientation days should be run by? (select all that apply)**

**Local authorities?**  
**Employers?**  
**Local authorities and employers?**  
**Other? Please specify.**

We do not wish to comment on points not relevant to refugees, but would add that in development of refugee specific programmes, close working between the voluntary sector and refugee community organisations has been important in developing provision of value and appropriate to refugees.

**Q18. How do you think orientation days should be funded? (Please select one)**

**By the migrant?**  
**By employers?**  
**Other? Please specify.**

Any orientation provision that includes refugees must be free of charge to refugees and would therefore need to be funded by central government.

**Q19. What do you think an orientation day should involve?**

No comment, but see answer to question 13 above.

**Q20. Do you think that online orientation is a good idea?**

No comment

**Q21. Do you think that a group should be set up to add value to the development and implementation of integration strategies for migrants?**

We would be keen to see further plans about any such group and to be clear whether or not it will include refugees in the remit. If a further group is established it should involve meaningful participation from the voluntary sector and refugee community organisations.

**Q22. If set up, do you think this group should just include representatives from across government?**

No

**Q23. Do you think the group should also involve independent representatives, for example from the voluntary or community sector?**

Yes

It would be essential to include the voluntary and community sector in any such group.

**Q24. Do you think we should facilitate circular migration in order to reduce the negative impact of brain drain on developing countries?**

Yes

**Q25. In order to combat brain drain do you think it would be feasible to develop a list, similar to the NHS list, but covering other sectors?**

No comment.

**Q26. What evidence could be drawn upon to develop such a list? (please specify)**

No comment.

**Q27. What further views do you have on how we could mitigate against the negative impacts of migration from developing countries?**

Refugee community organisations and individual refugees should be supported to participate in development activities. Current UK asylum and citizenship policies create barriers to this, for example by imposing limited leave, barring refugees from working during the asylum determination process, and subjecting refugees to increasingly complex, protracted and expensive citizenship processes. There are many positive examples of community action by refugees to support change in the countries they have fled. If government policy is to seek to address the brain drain from developing countries it will be essential to factor in the experiences and potential of refugees and refugee community organisations.