

# Refugee Council

## policy response



Refugee Council response to 'The Path to Citizenship: next steps in reforming the immigration system.'

May 2008

## About the Refugee Council

The Refugee Council is the largest charity in the UK providing help and advice to asylum seekers and refugees. We campaign for their rights and help them rebuild their lives in safety. We work with refugees and those seeking asylum in England, at all stages of the asylum process and after they have been granted permission to stay.

### Introduction

The consultation on the Green Paper invites responses on a range of issues using a proforma. The Refugee Council's response to the questions that are relevant to refugees and asylum seekers is attached, using the proforma.

In addition, we have some general comments about the Green Paper that we wish to be considered alongside our completed proforma. These are below, along with a summary of the key points we make in the proforma.

### Summary of key concerns

- 1. Refugees, integration and cohesion – the approach in the Green Paper:** For refugees, many experiences and opportunities that contribute to successful integration occur during the period when the asylum claim is being processed, and before people become eligible for permanent residence. We believe that integration is not dependent on citizenship, and achieving citizenship does not guarantee integration. We hope that further development of the ideas in the Green Paper will take account of the positive initiatives already underway among receiving communities and new arrivals, and recognise that integration is a two-way process.
- 2. Involvement of refugees and refugee citizens and the evidence base for the Green Paper:** In our view, it is important that there is a clear and balanced evidence-base for policy development in this area. We are concerned that there does not appear to have been an assessment of the processes currently in place by which migrants, including refugees, apply for citizenship, integrate, learn English and contribute. We believe that the government should seek to build on the good work already being done by community organisations and migrants themselves to achieve integration instead of constructing an 'architecture' that increases hurdles and barriers to integration and creates a more protracted process for many. In addition, we note that a series of public listening sessions were conducted, and would like to know whether British citizens with refugee backgrounds were included in these sessions.
- 3. Introduction of probationary citizenship:** The Refugee Council believes that refugees should be given Indefinite Leave to Remain (ILR) when they are granted status, and should not be subject to automatic review after five years. We do not believe it is appropriate for those with a recognised need for protection to be required to further 'earn' the right to remain in the UK, and therefore we do not believe that the introduction of a new category of probationary citizen is necessary or desirable – it would be counter-productive in creating an additional period of uncertainty over and above the existing hurdles to permanent status in the UK. Once a person's refugee status is confirmed, they cannot be returned and are *de facto* here indefinitely. Refugees should not be required to meet the more general requirements of citizenship in order to be granted ILR.

More generally, we would prefer a different type of language. Using phrases such as 'Put new citizens on probation' and 'Probationary Period' does not help to encourage integration. The association with the criminal justice system should preclude their use. We believe that a probationary period fails to acknowledge the rights and previous contribution of those applying. Refugees and spouses of British Citizens and permanent residents have the right to remain in the UK.<sup>1</sup> Highly skilled and skilled workers from Tiers 1 and 2 will have made a significant contribution to the UK economy. The ESOL and Life in the UK requirements should meet the intended purpose of the probationary period.

4. **Review of limited leave to remain for refugees:** We urge the government to use the opportunity presented by the Green Paper to review the policy of granting limited leave. Refugees with five year limited leave face further distress and anxiety about the permanence of their status in the UK, and may well be placed at a further disadvantage when seeking employment, training, housing and rebuilding their lives. We note that Lord Goldsmith's review of Citizenship published in March 2008 recommends that the government undertake such a review (Citizenship: Our Common Bond, March 2008 at: <http://www.justice.gov.uk/reviews/citizenship.htm>).
5. **Clarification of the five year review process:** If a full scale review of the limited leave policy is not conducted, then it is important that further details are made available by the UKBA to clarify the process that is planned for reviewing leave. In particular, we request information as to the anticipated review timescales, criteria against which ongoing protection needs will be measured and availability of legal representation (including access to public funding where necessary, which will need to be discussed with the Legal Services Commission). This information will be necessary to be able to comment fully on the implications for refugees of the proposals in the Green Paper. We are concerned that the review of limited leave may be a protracted process, and that this could further delay transfer to permanent residence. At the very least, refugees should be issued with an interim Home Office document that clearly outlines their entitlement to work and other services while their status is being reviewed.
6. **Address barriers to citizenship for refugees:** Many refugees are very keen to become British citizens and can be supported to take this step. There is much more that could be done by the government to encourage and assist refugees to apply for citizenship under the current system. We would encourage the government to explore the take up of citizenship by refugees and take action to address any barriers (in particular the cost of applying) before introducing further hurdles such as probationary citizenship periods.
7. **Avoid introducing further processes that will delay permanent residence for those granted protection:** We support the government's stated aim of improving cohesion and integration, yet at present those who want to contribute fully to the UK, and have had their protection needs recognised, are left in limbo for a further period which is counter-productive. We would urge the government to ensure that if the current policy of granting limited leave is maintained, refugees should not be subject to further delays through the introduction of another year or more as a probationary citizen, or three years or more before they can apply for permanent residence.
8. **Ensure equal access to permanent residence for those who cannot or do not want to apply for citizenship:** We do not agree that those unable or unwilling to apply for citizenship should be penalised for doing so, or discriminated against (with regard to how long they have to wait to confirm their permanent residence) because restrictions in their country of origin preclude them from holding more than one nationality. We believe that those who choose to apply for permanent residence instead of citizenship should be subject to equal timescales.

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<sup>1</sup> Refugees as previously noted; spouse through the Human Rights Act 1988 Schedule 1 Part 1 Article 8 *Right to Respect for Private and Family Life*

9. **Discretionary Leave to Remain (DL) and Special Immigration Status (SIS):** we presume that a pathway to citizenship and indefinite leave to remain will be available to people with DL or SIS.
10. **Maintain the practice of granting Gateway refugees permanent residence on arrival:** The Refugee Council agrees that Gateway refugees should continue to be granted permanent residence on arrival. Resettlement programmes are intended to be durable solutions and we would strongly oppose the introduction of an active review for Gateway refugees. Gateway refugees have often been in refugee camps for many years and are selected on the basis of their vulnerability; a less than permanent status would serve to prolong the uncertain future of this already vulnerable group that the UK has selected to bring here. UNCHR recommends that Gateway refugees should continue to receive permanent status upon arrival in the UK.
11. **Support volunteering by refugees, but do not undermine volunteering by making it a requirement of the citizenship process:** We believe that all those in the UK should be encouraged and supported to live as active citizens. At present, many refugees and asylum seekers contribute actively to life in the UK in a variety of ways.<sup>2</sup> However, we are opposed to the linking of citizenship and permanent residence to active citizenship. There are many different reasons for volunteering, but being required to take part in order not to prolong the passage to citizenship risks undermining the voluntary notion of the activity. Making active citizenship such a core component of the citizenship process could also be discriminatory as people with illnesses and disabilities may find it difficult to access volunteering opportunities. In some cases, women and single parents may also find it difficult to find suitable volunteering opportunities.
12. **If volunteering is made a requirement of the passage to citizenship, ensure that it is not discriminatory and recognises alternative forms of contributing to communities:** If the requirement for active citizenship is implemented, it must be done in a way that recognises a range of activities, and does not discriminate against or disadvantage those who are contributing to communities in other ways.

If volunteering is to be linked to active citizenship, it is important that the definitions of activities are broadened to include a wide range of possible activities, not just those that meet the formalised volunteering structure reflected in the consultation paper. In addition, we believe that provision should be made for this experience to be assessed and accredited as part of informal or formal learning.

13. **Ensure that the policy concerning those who have been convicted of an offence is proportionate and allows for individual assessment of cases:** We believe that proportionate decisions need to be taken on a case-by-case basis where someone has committed a crime. We recognise that there will be circumstances where the nature of the offence could legitimately have an impact on whether an application for citizenship is delayed or refused, but we would be concerned if the policy was a blunt instrument to stop or delay all citizenship applications. We do not believe that stopping or delaying a parents' application for citizenship as a result of the behaviour of their child would be helpful in supporting parents to deal with criminal behaviour by their children. The threat of an impact on citizenship or permanent residence processes is unlikely to serve as a deterrent, or have a moderating impact on a child or young person. Once a criminal act has been committed by a child or young person, it is not constructive to penalise parents.

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<sup>2</sup> For example, the Institute for Public Policy Research found that a very high proportion of refugees interviewed were volunteering. J. Rutter, M.Latorre and D.Sriskandarajah (2008) *Beyond Naturalisation: Citizenship policy in an age of super mobility*. London: ippr

14. **Ensure access to home student fees and student support in further and higher education during probationary citizen period:** It is important that asylum seekers granted refugee status or who are refused asylum but given Humanitarian Protection or Discretionary Leave to Remain should continue to be considered as home students for fee purposes and student support in further and higher education during the probationary citizenship period. This eligibility should start from the time of the first decision. Further and higher education offer key opportunities for developing new and existing skills in the UK.
15. **Consider the impact on refugees of restricting access to services for temporary residents and probationary citizens:** We are concerned that introducing further restrictions on access to services for temporary residents and probationary citizens will have an impact on refugees, even if the policy acknowledges that those recognised as having protection needs have full access. Our experience of the implementation of current restrictions on health care is that many clients who are entitled to services are not able to access them because the administrators of the services do not understand the rules or misapply them. We believe restrictions of this kind can lead to discrimination and would urge these issues to be considered before any further restrictions are introduced.
16. **Ensure that the Simplification process is coherent and realistic:** We are concerned that elements of the Simplification process are set out as part of this Consultation without any strategic overview of what the whole process will look like. The level of detail in the Green Paper is too vague to allow for detailed scrutiny. Our understanding of the Simplification process was that such an overview would be published and that there would be the opportunity to comment on the scope and content of the whole proposed structure before being asked to comment in detail on specific changes. This does imply a longer timetable than the one to which the government is committed. We remain of the view that there should be a process of consolidation of existing legislation before legislation is introduced. Instead we understand there will be a partial draft Bill published in May with a final Bill in November based on this piecemeal approach. This is extremely unsatisfactory.

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