



Home Office

**Border &  
Immigration Agency**

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

February 2008



# CONTENTS

<b>FOREWORD BY THE RT HON JACQUI SMITH MP, HOME SECRETARY</b> .....	<b>5</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>6</b>
<b>CHAPTER 1: MIGRATION - THE CHALLENGES AND REFORMS</b> .....	<b>9</b>
1.1 Introduction: why now?; the benefits of migration; the views of the public; and the impact of migration on communities .....	<b>9</b>
1.2 Transforming the immigration system .....	<b>10</b>
1.3 The journey to citizenship .....	<b>11</b>
1.4 Simplifying immigration law .....	<b>12</b>
1.5 Conclusion .....	<b>13</b>
<b>CHAPTER 2: THE VIEWS OF THE PUBLIC AND WHAT OTHER COUNTRIES ARE DOING</b> .....	<b>14</b>
2.1 What does the British public think? .....	<b>14</b>
2.2 Key themes identified by the public: speaking English; paying your way; obeying the law .....	<b>15</b>
2.3 Other themes identified by the public: putting citizens on probation; volunteering .....	<b>16</b>
2.4 Putting British values at the heart of the immigration system .....	<b>17</b>
2.5 What other countries are doing .....	<b>17</b>
<b>CHAPTER 3: THE ARCHITECTURE OF THE SYSTEM - WHO CAN QUALIFY FOR CITIZENSHIP AND THE STAGES IN THE JOURNEY</b> .....	<b>19</b>
3.1 Overall architecture .....	<b>19</b>
3.2 Three routes to citizenship .....	<b>19</b>
3.3 Three stages in the journey .....	<b>22</b>
3.4 Gateway Protection Programme .....	<b>23</b>
3.5 Other Categories .....	<b>23</b>
<b>CHAPTER 4: EARNING THE RIGHT TO STAY - WHAT WE REQUIRE OF MIGRANTS TO PROGRESS THROUGH THE SYSTEM</b> .....	<b>25</b>
4.1 Introduction .....	<b>25</b>
4.2 English language .....	<b>25</b>
4.3 Minimum time periods contributing economically or demonstrating genuine relationship .....	<b>26</b>
4.4 The effect of criminal activity on a migrant's journey through the system .....	<b>28</b>
4.5 Active citizenship .....	<b>29</b>
4.6 Summary .....	<b>30</b>
<b>CHAPTER 5: THE IMPACT OF MIGRATION AND ACCESS TO BENEFITS AND SERVICES</b> .....	<b>33</b>
5.1 Introduction .....	<b>33</b>
5.2 Access to benefits and education .....	<b>33</b>
5.3 Access to healthcare .....	<b>34</b>
5.4 Next Steps .....	<b>35</b>
5.5 A Fund to Manage the Transitional Impacts of Migration .....	<b>35</b>

<b>CHAPTER 6: EEA NATIONALS .....</b>	<b>37</b>
<b>CHAPTER 7: SIMPLIFYING THE SYSTEM AND REFORMING THE LAW .....</b>	<b>39</b>
7.1 Simplification Principles .....	39
7.2 Receiving and Registering Applications .....	41
7.3 Protection .....	42
7.4 The Border .....	43
7.5 Purpose of Entry and Stay .....	44
7.6 Enforcement and Compliance .....	45
7.7 Biometric Information.....	46
7.8 Appeals .....	47
7.9 Summary of Proposals .....	47
<b>CHAPTER 8: SUMMARY OF PROPOSALS AND RESPONDING TO THE GREEN PAPER .....</b>	<b>48</b>
<b>ANNEX A: THE POINTS BASED SYSTEM .....</b>	<b>51</b>
<b>ANNEX B: ESOL LANGUAGE LEVELS .....</b>	<b>53</b>
<b>ANNEX C: CONSULTATION ON THE IMPACTS OF THE GREEN PAPER PROPOSALS .....</b>	<b>54</b>
<b>ANNEX D: CONSULTATION CRITERIA.....</b>	<b>56</b>

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## FOREWORD BY THE RT HON JACQUI SMITH MP, HOME SECRETARY



We are all familiar with the emergence of immigration as a significant issue of public interest. Increased flows of people around the world make securing our border one of our toughest challenges. There is widespread acceptance that migration is a key factor in our economic growth but also concern about the impact on public services.

We have made substantial progress in recent years in meeting the challenges posed by migration. This includes a huge reduction in the numbers of asylum applications and record performance on removals of foreign national prisoners and immigration offenders.

This year, the reforms we have put in place will deliver radical changes to the UK's immigration system. From 1 April we are introducing the new UK Border Agency bringing together the Border and Immigration Agency, UKvisas and Customs work. To further secure our borders, we are now checking fingerprints, as a matter of course, before we issue a visa anywhere in the world for those wishing to travel to the UK, and we will again begin to count foreign nationals in and out of the country.

We will expand our detention capacity and implement powers to automatically deport serious offenders. To prevent illegal immigration, we will introduce the new points based system, introduce compulsory ID cards for foreign nationals who wish to stay in the UK, and introduce large on-the-spot fines for employers who do not make the right checks.

By the end of 2008, therefore, the immigration system will look and feel different. Firstly, we will have revolutionised the way in which we judge who can come. Secondly, we will have transformed the way we police the system and protect our borders.

This Green Paper outlines the Government's plans for a third phase of migration reform. That is reform of the path to British citizenship in order to reinforce our shared values.

We have listened to what people have told us about migration and citizenship. British people have welcomed migrants over the years. Our economy and our communities are stronger for their contribution to British life. And people also think it's fair that the rights and benefits of citizenship are matched by responsibilities and contributions to Britain.

There is a deal for citizenship. This is a country of liberty and tolerance, opportunity and diversity - and these values are reinforced by the expectation that all who live here should learn our language, play by the rules, obey the law and contribute to the community. The green paper forms part of the wider work being conducted across Government, including the Goldsmith review of citizenship commissioned by the Prime Minister.

We want to make the journey to citizenship clearer, simpler and easier for the public and migrants to understand. Our proposals to achieve this aim are an integral and central part of our wider work to overhaul the legal framework for immigration.

The Green Paper sets out details of our plans to simplify the law's current complexity and make it fit for the 21st century. We propose that all existing immigration laws should be replaced with a clear, consistent and coherent legal framework for the control of our borders and management of migration, with key provisions set out in a single focused piece of primary legislation.

I believe that the right response to immigration is one which reflects our values, not our fears. Our proposals for the future of the immigration system set out an approach which ensures that we manage and control immigration in a way that is to the benefit - not just for our economy, but for our society, our citizens, and our way of life.

A handwritten signature in blue ink that reads "Jacqui Smith". The signature is written in a cursive style with a long horizontal flourish at the end.

**Rt Hon Jacqui Smith MP**  
Home Secretary

## EXECUTIVE SUMMARY

1. Across Government we are introducing reform to strengthen our shared values and citizenship.

The purpose of this paper is to set out how reform of a newcomer's **path to citizenship or permanent residence** can contribute to this agenda.

2. We make these proposals against the backdrop of sweeping changes to our immigration system. These include changes to ensure that those who come to Britain do so in our country's interests, and changes that will improve how we police the system and protect our borders. This paper proposes a third field of change: the journey newcomers take towards citizenship or permanent residence.
3. We propose to make these changes together with a radical **simplification of our immigration laws**.

We plan to publish a partial draft bill for pre-legislative scrutiny by the summer and will introduce a full bill to Parliament by the end of November 2008.

4. Our objective is to make our immigration system clearer, more streamlined and easier to understand, in the process reducing the possibilities for abuse of the system, maximising the benefits of migration and putting British values at the heart of the system.
5. At the same time we think the current system does not provide enough of an incentive for a migrant to progress to British citizenship. We want to encourage people with the right qualifications and commitment to take up citizenship so that they can become fully integrated into our society.

### THREE ROUTES TO CITIZENSHIP AND THREE STAGES IN THE JOURNEY

6. We have clear objectives for the changes we are making to our immigration system. We want to bring to Britain the skills and talents, the assets and ideas that we need to remain one of the world's leading nations. We want to reunite British citizens and permanent residents with their loved ones. And we want to honour our

long and proud tradition of providing a safe haven to those fleeing torture and persecution.

7. In the future, we propose that there should be **three key routes to naturalisation as a British citizen**:
  1. Highly skilled and skilled workers under the points-based system, and their dependants (economic migrants)
  2. Family members of British citizens and permanent residents
  3. Those in need of protection (refugees and those granted humanitarian protection)

And there should be **three stages in the journey**:

1. Temporary residence
  2. Probationary citizenship
  3. British citizenship/permanent residence
8. The second stage, **probationary citizenship**, is a new time-limited period between temporary residence and British citizenship or permanent residence.

### EARNING THE RIGHT TO STAY: WHAT WE REQUIRE OF MIGRANTS TO PROGRESS THROUGH THE SYSTEM

9. We want to set out a clear journey to citizenship for migrants who are eligible to remain permanently in the UK, where the rights and benefits of Britain are matched by responsibilities and the right contribution to our country.
10. Under our proposals, the journey to citizenship will enable migrants to demonstrate a more visible and a more substantial contribution to Britain as they pass through successive stages. At each stage, the journey will incorporate appropriate requirements that determine whether a migrant can progress. There are four areas where we propose changes in the requirements for progression:

- a. **English language requirements<sup>1</sup>**: we propose that the current tests for settlement should apply for those seeking to progress to probationary citizenship.
- b. **Paying tax and becoming self sufficient**: we propose that there should be **minimum time periods** that migrants are required to spend in each stage of the process, during which they demonstrate the strength of their contribution to the economy; or their relationship to a British citizen or permanent resident together with a track record of self sufficiency.
- c. **Obeying the law**: newcomers who wish to remain in our country must obey the law of the land. So we will deny access to probationary citizenship where an applicant has been to prison and require them to leave the UK. We will also slow a migrant's progress through the system even where minor offences are committed, so that behaviour that falls below the standards we expect has consequences.
- d. **Joining in with the British way of life**: integrating into British life is a crucial part of a newcomers journey to citizenship. Therefore we propose to speed up a migrant's journey through probationary citizenship where they have demonstrated their commitment to the UK by playing an active part in their community.

## THE IMPACT OF MIGRATION AND ACCESS TO BENEFITS AND SERVICES

11. Migrants are on average net fiscal contributors. But we need to take into account any transitional pressures that migrants place on public services, and ensure that individuals are not able to place undue demands on our benefits and services.

We want to:

1. The requirement to speak 'English' is referred to in this document, but please note that demonstrating knowledge of either Welsh or Scots Gaelic also satisfies this requirement.
2. Nationals of EU Member States plus Iceland, Liechtenstein and Norway.
3. An EEA national exercises their Treaty right by working, studying, being self-employed or self-sufficient.

- a. clarify which benefits and services migrants can access at each stage of their journey, providing only restricted access to certain benefits until they reach the British citizenship/permanent residence stage.
  - b. create a fund to manage the transitional impact of migration, to which we will ask newcomers to contribute extra in payments to the public purse to help alleviate the transitional pressures we know migration can bring.
12. In developing our proposals we will ensure they are consistent with the principles of the Good Friday agreement.

## EUROPEAN ECONOMIC AREA (EEA) NATIONALS<sup>2</sup>

13. The reforms to the immigration system outlined in the paper do not affect the rights of EEA nationals. But we will maintain our robust approach to EEA nationals who abuse our welcome by committing criminal acts - and work with other Member States to strengthen our approach further. We will continue our restrictions on access to benefits for EEA nationals where they have no intention of exercising their Treaty rights , and we will work with other Member States to determine how we can improve the integration, including language skills, of EEA nationals. We believe that European Member States should also work together to ensure EEA migration works to the benefit of all and that EEA migrants are able to contribute fully to our society. We will set up two cross-departmental teams to look at these issues and will develop proposals to put to EU partners'.

## SIMPLIFYING THE SYSTEM AND REFORMING THE LAW

14. As we look to reform the path to citizenship and continue to transform the immigration system, we need to simplify the law's current

complexity and make it fit for the 21st century. That complexity reduces the efficiency of the decision-making process, resulting in delays, increasing the risk of mistakes, making it difficult for migrants and the public to understand the system, making enforcement of the rules more difficult and contributing to a lack of public confidence in the system. Making the law more straightforward and comprehensible will boost the effectiveness of our decision-making and enforcement, giving applicants a clearer picture of their prospects and helping improve public confidence in the immigration system.

15. We want simplification to make our law more straightforward for all its users, and our changes in the law will support and enable the wider work to transform the immigration system and make it more effective.

All existing immigration laws will be replaced with a clear, consistent and coherent legal framework for the control of our borders and management of migration. Key provisions will be set out in a single focused piece of primary legislation.

The key principles which we believe should underpin the simplification process are that it should **maximise**: transparency, efficiency, clarity; and that it should **minimise**: the need for further legislation, reliance on concessions outside the rules, inconsistencies, duplication and gaps in our powers to resolve cases effectively.

16. This paper includes a number of consultation questions. These are included in the text. For responses to the questions, please use the consultation proforma which can be found at: [www.bia.homeoffice.gov.uk/aboutus/consultations/current/](http://www.bia.homeoffice.gov.uk/aboutus/consultations/current/)

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# CHAPTER 1

## MIGRATION: THE CHALLENGES AND REFORMS

### 1.1 INTRODUCTION

17. Over the next 12 months we are introducing the most sweeping changes to the immigration system for over 30 years:

- Revolutionising the way in which we judge **who can come** through the Points Based System (PBS); advised independently by the Migration Advisory Committee (MAC) on where our economy needs migration and where it doesn't; and by the Migration Impacts Forum (MIF) to tell us about the pace of change that's right.
- Transforming **the way we police the system**; locking down the identity of newcomers before they come; a single border force with new powers to guards our ports and airports, with new systems to count people in and out of Britain; with compulsory ID cards for foreign nationals so that public services and employers can be sure about the identity and rights of people who stay.

18. We need to be clear about what our goals for the immigration system should be. We believe that it should have three primary goals:

- to bring to Britain the skills and talents, assets and ideas we need to stay one of the world's leading nations
- to reunite British citizens and permanent residents with their loved ones
- to honour our long and proud tradition of providing a safe haven to those fleeing torture, persecution or worse

19. The sweeping changes we are already introducing are putting us on the right track. Now is the right time to complete this process by reforming the **path to citizenship** and creating a **simpler legal framework** for immigration.

This paper sets out our proposals. Our objective is to make our immigration system **clearer, more streamlined and easier to understand**, in the process **reducing the possibilities for abuse** of the system, **maximising the benefits of migration** and putting **British values** at the heart of the system.

#### Why is this important now?

20. Britain is a more diverse place today than ever before.
21. Many different things account for this: the different way we work, the different shape of our families, the speed with which we move around, the development of the online world. And migration too has contributed to diversity, all over the Western world.
22. This freedom to live life as each of us chooses is something we should welcome, but a more sophisticated society still needs strong bonds to hold it together. Otherwise there is a danger that different communities can look inwards and forget what they have in common with each other.
23. Migration is one of the changes that contributes to diversity across the world, and is increasing. Around the world between 1960 and 2005 the number of international migrants has more than doubled from 75 million to 191 million<sup>4</sup>.
24. Together these changes mean many of Britain's communities look different. But this is true of all advanced western democracies.
- The UK's net migration rate<sup>5</sup> in 2005 was 3.4 per thousand. Organisation for Economic Cooperation and Development (OECD) countries<sup>6</sup> averaged between 2001 and 2005 ranged from 2.6 to 4.2<sup>7</sup>.

4. United Nations Department of Economic and Social Affairs, 'The Trends in Total Migrant Stock: The 2005 Revision'.

5. Net migration is calculated as immigration minus emigration, with the result divided by the resident population.

6. Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States.

7. OECD, International Migration Data 2007.

- And in 2005, the UK was placed mid-way in OECD countries in terms of the percentage of foreign-born population. The figure was 10 per cent of the population - less than a number of countries including Australia (24 per cent), the United States (13 per cent), the Netherlands (11 per cent), Germany (13 per cent) and Sweden (12 per cent)<sup>8</sup>.

### Benefits of migration

25. Migration is nothing new. Our islands have always been subject to flows of migration. Our history, both ancient and modern, is rich with examples of how economic growth has been supported and even secured through migrant labour. Our position is clear: carefully managed migration brings significant and undoubted benefits to the UK.
26. Today, migrant workers are filling skills shortages and meeting labour market demands. They are working in the NHS and our public services. They are creating new businesses and jobs.
27. In the same way free trade and capital mobility boost our income, so does migration. A wider labour market increases flexibility, improving the matching of workers to job opportunities. By bringing complementary skills and talents, migrants make the native population more productive and more prosperous. By underpinning essential services that the economy needs, migrants leave other workers free to concentrate on what they do best, raising productivity indirectly.
28. Migration affects trend growth principally through changes in the working age population. The Treasury has estimated that total net migration contributed around 15-20% of trend growth between mid-2001 and mid-2006, adding about  $\frac{1}{2}$  a percentage point to annual output growth, equivalent to £6bn of additional output in 2006<sup>9</sup>. Evidence suggests that migrants have a positive impact on GDP per head directly through their own output and indirectly through raising the productivity of others. On average, the foreign-born earn more than the UK-born and are more likely to be in employment as a proportion of the total population. On average, the foreign-born are more likely to be in employment as a proportion of the total population<sup>9</sup>.
29. More broadly, just as with free trade, the long-run dynamic impacts - while very difficult to measure - may be quite large. For example, the UK financial services industry has more than doubled in the last decade, now making up around 10% of GDP<sup>10</sup>. Given over 29% of the London workforce is born abroad it is difficult to see how that could have happened without immigration<sup>11</sup>.
30. We are a country in which many cultures live and are enriched by people of diverse backgrounds from other countries. The development of our cuisine, the patterns of employment we see in different local areas and the contribution to the arts of those coming from around the world and bringing their own traditions with them have shaped society and provided us with a rich and varied cultural life. The most obvious example is the Notting Hill Carnival - originally a celebration of Caribbean culture by London's West Indian community brought to the UK by Windrush and today Europe's largest street festival. Last year Bollywood's equivalent of the Oscars - the International Indian Film Academy Awards - took place in Sheffield demonstrating the closeness of film industries and the vibrancy of Bollywood in the UK.
31. We believe that the increase in global migration has led to and will continue to lead to transitional pressures on our communities and public services. We need an immigration system

### 1.2 TRANSFORMING THE IMMIGRATION SYSTEM

8. OECD (2007), OECD in figures.

9. Cross Departmental Submission to the House of Lords Select Committee on Economic Affairs: 'The Economic and Fiscal Impact of Migration', Home Office and Department of Work and Pensions (October 2007).

10. International Financial Services London, February 2008

11. City of London Corporation, [www.cityoflondon.gov.uk/Corporation/business\\_city/research\\_statistics/research\\_publications.htm](http://www.cityoflondon.gov.uk/Corporation/business_city/research_statistics/research_publications.htm)

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that can respond to and meet these challenges in a way that maximises the benefit to our national interest and minimises the opportunities for abuse - and we've already started. Over the last 12 months we have drawn up plans for the biggest ever shake-up to Britain's border security. This year we make the change. By the end of the year the system will look and feel different. And every month the public will be able to see progress on our **ten point deal for delivery** for 2008.

#### **Britain's border protection programme**

1. Introduce a single border force to guard our ports and airports
2. Introduce police-like powers for frontline staff
3. Check fingerprints before we issue a visa anywhere in the world
4. Count foreign nationals in and out of the country
5. Introduce compulsory watch-list checks for all travellers before they take-off for Britain

#### **Maximise the economic benefits of migration**

6. Introduce a new Australian style 'points based system' (PBS) so business can bring-in the legal migrants our economy needs.

#### **Strong steps to prevent illegal immigration**

7. Introduce compulsory ID cards for those foreign nationals who want to stay
8. Major on the spot fines for employers who don't make the right checks to ensure migrants they employ have the right to work

#### **Holding newcomers accountable for their behaviour**

9. Introduce automatic deportation for serious criminals and build more detention spaces to help

#### **But a compassionate system**

10. Honour our asylum obligations but make - and enforce - decisions much faster, and with a more sensitive treatment for children

### **1.3 THE JOURNEY TO CITIZENSHIP**

32. If reform of immigration is to contribute to the Government's wider agenda of reinforcing shared values, then change has to extend beyond the policy of who can come and who cannot, and beyond the administration of policing that policy in practice. That is why we are proposing to reform the journey that a newcomer takes, from arrival as a migrant in the UK to becoming a British citizen or a permanent resident.
33. Our central proposal for reform of the journey to citizenship is that, alongside strengthening the rights of citizenship, citizenship must be earned. The unifying idea is that there is a deal for citizenship: that we welcome newcomers, but anyone who wants to remain here long term must speak our language, obey the law and contribute to the community.
34. The architecture of the system must be clearer, simpler and easier to understand; and the requirements to move through the system and the rights that accompany each stage must have British values at their heart. Chapters 3, 4 and 5 set out our proposals.

#### **Views of the public**

35. Today, we live in a sophisticated country that is comfortable with difference. And across Government we are developing policies to strengthen our shared standards and values. Citizenship reform for newcomers has an important contribution to make to this agenda.
36. Listening to and responding to the concerns of the British people is at the heart of the changes we propose.
37. In recent months we have hosted a number of public listening sessions across the UK<sup>12</sup>. The aim of these events was to engage with the public on key immigration issues including: successful

integration; how potential citizens should demonstrate their commitment to Britain; and celebrating citizenship.

38. Several clear themes emerged during the sessions as the most commonly and strongly held views:
- Speaking English: by far the most important factor to assist integration.
  - Paying your way: working and paying tax is seen as an essential precursor to acquiring citizenship.
  - Obeying the law: the need for newcomers to obey the law, consequences should follow for those who don't.
  - Support for the idea of 'provisional citizenship' – a period during which the right to stay could be removed if a serious crime was committed.
  - Support for a system which requires newcomers to demonstrate commitment to the community before they can become British citizens, balanced with a strong sense that it would be unfair to ask them to do more than we do ourselves.
39. The views of the public and the outcomes of the public listening sessions are considered in detail in chapter 2.

### Impact on communities

40. There is no doubt that increased migration has had a significant impact on British communities and is contributing to Britain's diversity.
41. But in the modern world, where the forces that can pull us apart can be strong, there is a risk that when we are confronted by change we look inward and focus on concerns about the differences between people, rather than looking at the things that we all have in common.

42. Yet the things we have in common are what give us a shared sense of mutual obligation. We believe we need to work harder to strengthen the things – the values, the habits, the qualities – that we have in common, and thereby strengthen our communities.
43. Citizenship is one of the key things we have in common with each other and that is why it is so important. We believe that we must now address the issue of citizenship to complete the reforms that are needed to our migration system. We propose that just as we are changing the way we judge who should come to Britain, so too must we change the way we ask newcomers to earn the right to stay, and in time attain the privileges of British citizenship.
44. This reform links closely to the wider Government agenda to increase the cohesiveness of our communities, in particular the work of the Department for Communities and Local Government (DCLG).
45. The Commission on Integration and Cohesion, which was established by DCLG in June 2006, has undertaken important work on how local areas can make the most of diversity while being able to respond to the tensions it may cause, and published a report of its findings, "Our Shared Future", in June 2007. DCLG issued a detailed response to each of the Commission's recommendations on 4th February and the Government's commitments going forward. Our reform of the path to citizenship is an important part of this work. The key feature of the proposed system is that it aims to increase community cohesion by ensuring all migrants 'earn' the right to citizenship and asks migrants to demonstrate their commitment to the UK by playing an active part in the community.

### 1.4 SIMPLIFYING IMMIGRATION LAW

46. At the same time we need to make the legal framework clearer, more streamlined and easier for the public and migrants to understand.

12. Discussion groups were organised in Aberdeen, Birmingham, Bristol, Cardiff, Croydon, Leeds, Newcastle, Nottingham and Portsmouth by the Central Office for Information on behalf of the Border and Immigration Agency

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47. Following the review of the immigration system in July 2006, we made a commitment to simplify and reform immigration law radically.

48. We conducted an initial consultation on simplifying immigration law last summer setting out key principles for simplification and inviting views.

49. An analysis of the response to this consultation was published on 6th December 2007. The consultation document and the analysis of responses can be found at:  
**[www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/simplification1stconsultation/](http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/simplification1stconsultation/)**

50. Immigration law is very complex. The Immigration Act 1971 is still at its heart. Since then ten other Acts have been overlaid on it - for good reason, as successive Governments have provided vital additions and strengthening measures to respond to the enormous changes there have been over the last 35 years. The time is now right for consolidation and rationalisation of the immigration law - a process which must also include immigration rules, secondary legislation, guidance and concessions outside the rules.

### **Why does simplification matter?**

51. It matters because complexity reduces the efficiency of the decision-making process, resulting in delay and increasing the risk of mistakes. It can make it difficult for applicants to understand how they can come to or stay in the UK legitimately - or recognise quickly that they do not qualify to do so. It increases the likelihood of protracted legal challenge of refusals, making enforcement more difficult. And it contributes to a lack of public confidence in the overall effectiveness of the system.

52. We want to make the most of this opportunity to make our law more straightforward for all its users. Changes in the law will support and enable the wider work to transform the immigration system and make it more effective. It will support quicker, easier and more efficient

decision-making; minimise the requirement for discretion; and ensure both processes and likely outcomes are transparent.

53. Respondents to our initial consultation told us that that we need to be effective not just efficient; that we need to ensure consistent high quality decisions; and that we need to secure the confidence of all those involved in or affected by immigration that we are operating a controlled and fair system. Changing the legal framework will not achieve that by itself but will enable, encourage and drive wider change.

54. All existing immigration laws will be replaced with a clear, consistent and coherent legal framework for the control of our borders and management of migration.

55. Key provisions will be set out in a single focused piece of primary legislation.

56. Chapter 7 contains further details of our proposals for simplification.

### **1.5 CONCLUSION**

57. Immigration has always provoked debate. This is understandable. It affects our country, our communities and every one of us – both positively and negatively. But we are clear that Britain does and will continue to benefit from carefully controlled migration.

58. This document goes on to detail our new vision for the journey to citizenship, firstly considering the views of the British public in more detail and what other Western countries are doing (chapter 2), then setting out our new vision for who can qualify for citizenship and the stages in the journey (chapter 3), before considering how migrants could ‘earn’ the right to stay in the UK (chapter 4), going on to look at the issue of the impact of migration on benefits and services (chapter 5); considering EEA nationals (chapter 6); then setting out more fully our proposed simplification objectives and the reforms to the law that we propose to meet these objectives (chapter 7); and finally detailing how to respond to the issues raised in this paper (chapter 8).

## CHAPTER 2

# THE VIEWS OF THE BRITISH PUBLIC AND WHAT OTHER COUNTRIES ARE DOING

59. There is a simple ambition behind our proposed reform of the immigration system: to place the values of the British people at the heart of the journey newcomers take towards citizenship. To do this, we are clear that we must listen to and take account of the views of the public in developing our reforms.

### 2.1 WHAT DOES THE BRITISH PUBLIC THINK?

60. To understand in detail the values that the public feels should be at the heart of our immigration system, we held nine public listening sessions around Britain, talking to hundreds of people about the kind of changes they wanted to see<sup>13</sup>.

61. The public is very clear that it wants to see a much simpler, more straight-forward set of rules governing the way newcomers become citizens, with a much clearer set of rights and responsibilities.

#### What are our shared values?

62. It is a common observation that British people hold only a loose sense of what shared British values are – until people are faced with something that looks like a direct challenge to accepted norms like ‘tolerance’ and ‘freedom of speech’.

63. But people give a sense of what’s important to them when asked what they would miss if they emigrated. The NHS was commonly cited, as were our values of tolerance, fairness and freedom of speech, a healthy disrespect for authority and yet a keen sense of order.

*‘Its hard to pin down [what a good citizen is]. You don’t want migrants to lose their identity. But you do get big culture clashes. People need to accept and fit in at some level and fundamentally show respect for the country.’*

**Newcastle participant**

*‘Multiculturalism is a two way street - they must accept us and change too’*

**Aberdeen participant**

#### Integration

64. There emerged a divergence in the way people feel about what the government or the local council is doing in terms of integrating newcomers, and what they personally should do to help. Often, people reported being in favour of personally doing a little more and the government, or local council, doing a little less.

65. There was a general acceptance that people from different backgrounds could have different cultural traditions and religious practices and that these difference should be respected. But people were concerned that cultural differences could obstruct integration, and that ‘integrating’ was not just about understanding British laws but also learning about everyday behaviours.

66. There was a broad sense that people wanted to see more of the onus to integrate placed on the newcomer, but at the same time that integration is not a one-way street in either direction, and that there is more that British people could and should be doing as individuals to make Britain and local communities more welcoming.

*‘When people come into the country they’ve got to feel part of Britain. We shouldn’t do anything to make them feel separate’*

**Cardiff participant**

*‘We should educate British residents not to be afraid of newcomers.’*

**Cardiff participant**

67. Some reported being keen to give up their time to help people integrate. Others mentioned how important it was for British people to make more of an effort to understand newcomers’ traditions. This was based on a sense that Britain has a long history of newcomers making a contribution to British life and this was one of the country’s positive features.

68. In sum, the prevalent point of view was a genuine desire to be welcoming, tempered

13. Discussion groups were organised in Aberdeen, Birmingham, Bristol, Cardiff, Croydon, Leeds, Newcastle, Nottingham and Portsmouth by the Central Office for Information (COI), on behalf of the Border and Immigration Agency

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by a belief that the welcome should not be unconditional. The views we received were unambiguous on three points in particular: it is important to **speak the common language**, **make an economic contribution** to the country and **obey the law**.

## 2.2 KEY THEMES IDENTIFIED BY THE PUBLIC

### Speaking English

69. Speaking a common language was the first and clearest value that the public identified. In every group discussion we saw, people were definite that speaking English is the crucial basis on which every other effort to create an integrated society is built.

*'Learning English is important - if you're not able to speak English you can't get involved.'*

**Croydon participant**

*'Language is the most important element in integration.'*

**Bristol participant**

*'Immigrants can become excluded because of language. Getting them to learn English is key as they can then take responsibility for their own integration.'*

**Leeds participant**

70. But, as well as being clear in their insistence on speaking our common language, people also gave significant thought to possible solutions, including:

- Schools helping newcomers' children to learn so that they can then help their parents
- Employers helping their employees with language lessons
- Language lessons at local colleges
- Less translation so that newcomers have to learn English to access services and find their way around

71. In addition to speaking the common language, the creation of a fair framework in which newcomers came to Britain and 'earned' their rights was seen as a key to successful integration,

with making an economic contribution and obeying the law being the key determinants of whether they had done so.

### Making an economic contribution

72. The second clear principal that emerged from our groups' discussions was the importance of working and paying tax.

73. In essence, working and paying tax were seen as essential precursors to acquiring citizenship. This idea of an 'economic contribution' was reasonably flexible and embraced;

- Paying taxes for fixed period of time
- Making investments or having a lump sum to bring to the UK
- Employing others
- Being able to support oneself and one's family through a permanent job

74. People had different ideas about the kinds of checks that were desirable to confirm that a person was making a positive economic contribution, but some kind of credit check to prove people were paying their bills, checks on proof of savings, check on tax contributions made, plus some kind of endorsement or sponsorship from the employer were consistently mentioned.

75. Three ideas linked to the issue of making an economic contribution were often raised during discussions on this topic:

- a. the idea of a differential tax rate for newcomers, including the possibility of higher NI contributions, or a higher rate of tax;
- b. group participants were keen on minimum qualifying periods paying tax, before becoming eligible for citizenship. Time periods of in the range of four to ten years were suggested;
- c. limits on access to benefits in the period before citizenship were widely endorsed, particularly in relation to housing.

## Obeying the law

76. The third clear principal was the need for newcomers to obey the law – and for immediate consequences to follow for those that broke it.
77. People were clear that migrants who wanted to become citizens should have no criminal record. Most were also clear that deportation should follow for anyone committing a serious offence. But there were varied opinions with regard to ‘minor offences’.

*‘You could have a probation period during which citizenship could be revoked if a serious crime was committed’*

**Aberdeen participant**

*‘Migrants should have a clear criminal record or have proven themselves reformed.’*

**Nottingham participant**

*‘Serious crimes (murder, rape, crimes against children) should exclude people - but not lesser offences like shoplifting. There should be one chance to break law, but for serious crimes [people] should be deported immediately’*

**Croydon participant**

## 2.3 FURTHER THEMES IDENTIFIED BY THE PUBLIC

### Put new citizens on probation

78. A number of people mentioned the idea of ‘provisional citizenship’ – a period during which citizenship could be removed if a serious crime was committed. Some felt that if any new citizens committed a crime, they should have their citizenship revoked. Others saw citizenship as absolute - once a citizen always a citizen, just as with British born citizens.
79. Checks for non-criminality were seen as important, and the Government was seen as having responsibility to ensure that British citizenship was awarded only when it was appropriate. In essence, people were in favour of a system which allowed for the possibility of denying citizenship to people if they broke the rules.

## Family

80. The public felt that dependants of migrants should be able to join loved ones in Britain - but only if they were immediate family. There was a strong feeling that it is right to keep families together, and that bringing dependants could have benefits by encouraging people to work harder to give their family a good standard of living. At the same time it was felt that there should be consequences where a dependant commits a criminal offence.

*‘Bringing kids gives parents stability, helps them to settle, and gives them drive to work harder. Limiting people to living without family is cruel.’*

**Birmingham participant**

*‘It is important to keep families together but you have to be responsible for them. If they can’t control their kids they should have their status revoked as family.’*

**Birmingham participant**

## Active citizenship

81. We tested the idea of asking newcomers to participate in some kind of community work. For many in the discussions this was an important idea – in particular for the contribution it could make to better integrated communities. It was generally thought to be an idea that should be implemented as early as possible in the migrant’s journey into the UK, and it was seen as a positive way in which newcomers could demonstrate a commitment to Britain by making every possible effort to integrate into the local communities where they lived.
82. But there were mixed views. In particular some took the view that we should not ask newcomers to sign-up to things that many British citizens did not get involved in.

*‘We can’t expect new citizens to behave differently from UK citizens or pass tests we cannot pass ourselves.’*

**Bristol participant**

*‘Some British people don’t contribute, how can we ask newcomers to do so? If you haven’t committed a crime and paid your taxes, then you’ve done enough.’*

**Newcastle participant**

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## 2.4 PUTTING BRITISH VALUES AT THE HEART OF THE IMMIGRATION SYSTEM

83. In line with our objective of putting British values at the heart of the immigration system, we have used the views we heard from the British public in developing our proposals. The following chapters set out the proposals.

## 2.5 WHAT OTHER COUNTRIES ARE DOING

84. At the same time we are clear that increased migration is not something which is unique to Britain. Almost all advanced industrial states are today experiencing faster rates of immigration. It is a phenomenon that is intimately linked to globalisation.

85. **Germany** has become a major country for immigration, largely as a result of its “guestworker” programmes in the 1960s/70s and an influx of eastern European immigrants following the collapse of communism. Immigrants now make up around 9% of Germany’s population, and 19% if EU citizens and those naturalised are counted<sup>14</sup>.

86. **Spain’s** population is now 45 million of which 10% are immigrants, a significant increase from 3% in 2000. In recent years there has been a large influx of Romanians (527,019). And most immigrants now come from the EU, overtaking Latin Americans as the biggest foreign group. African migrants represent 19% of the total<sup>15</sup>.

87. **Italy** is currently experiencing rapid immigration. Around 170,000 working migrant permits are issued annually, and in 2007 a further 320,000 foreign nationals, in Italy without legal papers, had their presence regularised. The main groups are Romanians, Moroccans, Albanians and Chinese. In total, foreign residents now number over 3 million<sup>16</sup>.

88. Immigration and border control continue to be significant topics for debate in the **USA** with American legislators wrestling with the issue of how to deal with the estimated 12 million illegal immigrants in the country<sup>17</sup>.

89. So it should come as no surprise to see most Western countries modernising their arrangements for integrating new citizens with a much greater accent on the need for newcomers to more visibly demonstrate a commitment to their new home.

90. **France** made it compulsory for foreigners wishing to reside long-term in France to sign a welcome and integration contract in July 2007, and is now introducing French tests abroad before issuing long-term residence visas.

91. **Spain** has just issued its first ‘Strategic Plan for Citizenship and Integration 2007-2010’, including aspirations ‘to foster knowledge...[of] the social norms and habits in Spanish society’.

92. In 2007, **Germany** launched its first ever National Integration Strategy. Integration measures have also been introduced to provide mandatory Germany language courses for all arrivals and a basic knowledge of German history and institutions.

93. **Italy** has plans to reform its legislation on citizenship, which include proposals for the introduction of a language and social integration test.

94. Elsewhere, in 2006 **the Netherlands** introduced civic integration exams as part of their requirements for a residency visa; **Sweden** is encouraging its municipalities to hold more ceremonies for new citizens; and in **Finland** the Ministry of the Interior became the Ministry for Internal Security and Migration on 1st January 2008, with all migration and integration matters now dealt with by this new migration department.

14. Bundesministerium des Innern - [www.bmi.bund.de](http://www.bmi.bund.de)

15. Instituto Nacional de Estadística - [www.ine.es](http://www.ine.es)

16. Istituto Nazionale di Statistica - [www.istat.it](http://www.istat.it)

17. Size and Characteristics of the Unauthorized Migrant Population in the U.S. Estimates Based on the March 2005 Current Population Survey, Jeffrey S. Passel (Pew Hispanic Center, March 2006)

95. Even countries with a long tradition of structured integration are making changes. **Australia** introduced citizenship tests like the UK's in September 2007 and, from mid-October, sign-up to a Values Statement is mandatory for getting a visa. And in the **US**, the Office of Citizenship created by the Homeland Security Act of 2002 is upgrading its naturalisation tests too. Applicants will have about a year to prepare for the exams which will be introduced in 2008.
  
96. It is against this backdrop that we are introducing our own reforms to the citizenship journey to introduce the concept of 'earned citizenship' by the terms of which anyone who wishes to live here permanently must speak our language, obey the law and contribute to the community, and at the same time we aim to create a system that is clearer, simpler and easier to understand.

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## CHAPTER 3

# THE ARCHITECTURE OF THE SYSTEM - WHO CAN QUALIFY FOR CITIZENSHIP AND THE STAGES IN THE JOURNEY

97. The reforms we are proposing to the immigration system apply to non-EEA nationals. Chapter 6 covers our proposals in respect of EEA nationals.
98. There needs to be absolute clarity about which migrants are eligible to become citizens, and the stages through which they progress to reach that status. There are three problems in particular that this chapter addresses:

1. **At present the overall architecture of the system is complex** and the public finds it difficult to understand who is allowed to remain here.
2. **The different stages that migrants move through are not clear.** We want to create a new clear process which all migrants who are eligible to become citizens will have to go through.
3. **There is not enough incentive for migrants to complete the journey to citizenship.** We want to encourage newcomers with the right values to become British citizens rather than permanent residents, so that they can become fully integrated into our society.

In developing the new process we have been mindful of the need to put British values at the heart of the system and to simplify immigration law, making the rights and responsibilities of migrants clearer as they begin their journey through a simpler and more effective immigration system.

99. This chapter sets out the proposed **routes to citizenship** and the proposed **stages in the journey**.

### 3.1 OVERALL ARCHITECTURE OF THE NEW SYSTEM

100. In future there will be **three key routes to naturalisation as a British citizen**:
- a. **Highly skilled and skilled workers** who have entered under the points-based system and are working and paying taxes, and their dependants (**economic migrants**)

- b. **Family members** of British citizens and permanent residents (**family**)
- c. Those in need of **protection (refugees and those granted humanitarian protection)** and their dependants

101. And three stages in the journey:

- a. **Temporary residence**
- b. **Probationary citizenship**
- c. **British citizenship/permanent residence**

102. Under the new system **migrants with a route to citizenship will need to complete a period of temporary residence before being eligible to progress to 'probationary citizenship'**, the second stage in the journey.

103. Visitors and migrants who enter the UK under Tiers 4 and 5 of the PBS will be classed as temporary residents but will not be eligible to progress to **probationary citizenship**. **Migrants who are ineligible or fail to qualify for probationary citizenship will be expected to leave the UK.**

104. **Probationary citizenship** will be a further time-limited stage after which migrants will be able to complete their journey to **British citizenship**. Migrants who choose not to become British citizens will be able to progress to **permanent residence**. The below chart sets out the basic architecture of the new system visually.

### 3.2 THREE ROUTES TO CITIZENSHIP

1. **Economic Migrants: highly skilled and skilled workers under the points-based system (Tiers 1 and 2 of the PBS)**

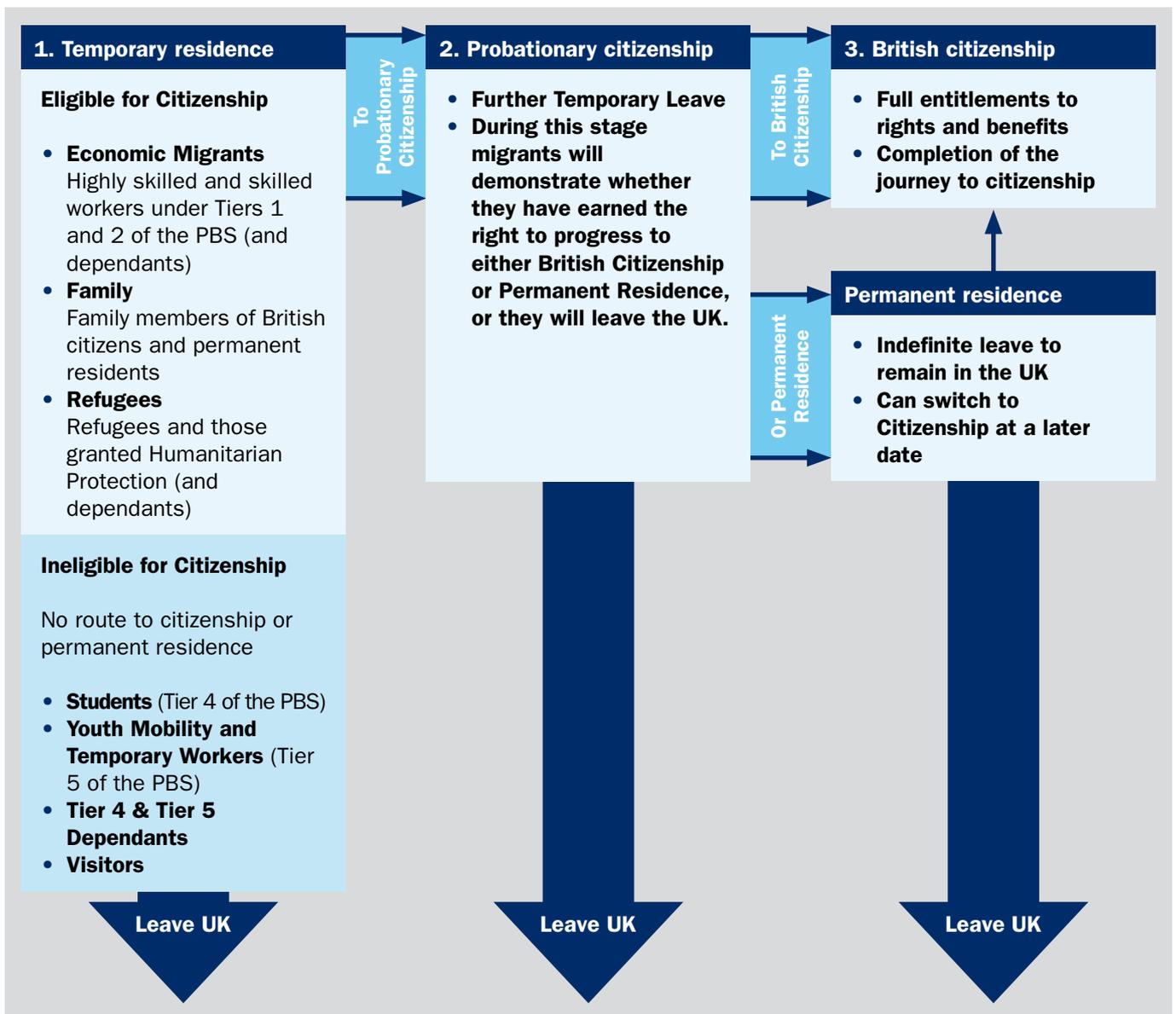
105. The Points Based System (PBS) is being phased in from 2008 and will enable us to control migration to the UK more effectively, maximising the economic benefits of migration by making sure only those Britain really needs come here to work.

This is because points will be awarded under the new system based on advice from the new Migration Advisory Committee (MAC), created to help us ensure we only get people with the right skills for the UK; and the new Migration Impacts Forum (MIF), which helps ensure we take into account the impact of migration on public services and communities. Under the new system all employers, colleges and others who benefit from migration and wish to act as sponsors will need a licence to do so. This

means they will need to agree to fulfil certain duties. This is a crucial part of the system and will help strengthen our controls against abuse.

106. The PBS consists of 5 tiers to replace the approximately 80 routes to work and study that currently exist:

**Figure 1. Architecture of the new system: entry to citizenship**



Tier	Description
1	Highly skilled, e.g. scientists or entrepreneurs
2	Skilled workers with a job offer, e.g. nurses, teachers, engineers
3	Low skilled workers filling specific temporary labour shortages, e.g. construction workers for a particular project. (Tier 3 will not be introduced whilst we retain restrictions on access to the labour market for Bulgarian and Romanians and will only be introduced in the future if conditions demonstrate that it is needed)
4	Students
5	Youth mobility and temporary workers, e.g. working holiday makers or musicians coming to play a concert

107. Highly skilled workers (Tier 1) and skilled workers with a job offer (Tier 2), will have a route to citizenship or permanent residence under the new system. Migrants in the other three Tiers will not.

### Tier 1

108. This ‘Tier’ consists of highly skilled workers, entrepreneurs and investors bringing the skills that we need to boost our economy.

The objective is to attract the most highly skilled individuals to the UK who will contribute to economic growth and productivity. It replaces the Highly Skilled Migrant Programme (HSMP) which introduced many of the changes in 2006.

Key features:

- Points will be awarded for qualifications, previous earnings and age
- Additional points will be awarded if earnings or qualifications have been gained in the UK
- A high level of English language is required
- Unrestricted access to UK labour market

### Tier 2

109. The objective of Tier 2 is to attract skilled individuals to the UK to fill specific jobs which cannot be filled within the European Economic Area (EEA). By filling these jobs they will contribute to the economic growth and productivity of the UK.

110. Key features:

- These will be skilled workers with a specific skilled job<sup>18</sup> offer.
- Migration under this Tier will be employer-led. The applicant needs a job offer from a licensed sponsor in the UK.
- Points are awarded for qualifications and prospective earnings.
- Points are awarded for migrants qualified in particular shortage occupations, depending on the needs of the economy as determined by the Migration Advisory Committee (MAC).
- Leave to remain in the UK is linked to length of job contract.
- English language is required.
- The migrant can be brought in only if the employer can demonstrate that there is no suitable worker from within the EEA.

111. We will issue a Statement of Intent for Tier 2 prior to its launch. This will allow people who may be affected by the changes to have time to prepare for them. Roll out of Tier 2 is scheduled for Autumn 2008.

112. Highly skilled and skilled workers will be able to bring their immediate family (partners and children) with them to the UK, but only if they are able to support them. This reflects the views of the public that it would be harsh to split up families. For further information about the PBS with full details of Tiers 1 and 2, please see Annex A.

18. The job must be at skill level NVQ 3 or above

## 2. Family members of British citizens and permanent residents (the family route)

113. This category involves uniting British citizens and those allowed to stay permanently with loved ones (their partners and dependants).

114. We intend to continue to allow British citizens and permanent residents to sponsor partners, children under 18 and elderly and other dependent relatives to come to the UK, recognising our human rights obligations.

## 3. Those in need of protection (refugees and those granted humanitarian protection)

115. Under the 1951 Geneva Convention relating to the status of Refugees, we are obliged in certain circumstances to provide protection to persons who are outside of their country of nationality and can show that they have a well founded fear of persecution for a Convention reason<sup>19</sup> in their country of origin.

116. We remain fully committed to the Convention and will continue to honour our international obligations to those who need our protection.

117. Additionally, as at present, we will not remove anyone from the UK where there are substantial grounds for believing that the person would face a real risk of suffering serious harm in the country of return<sup>20</sup>. Where such a person cannot return to their country voluntarily, we will grant humanitarian protection (HP)<sup>21</sup>.

### 3.3 THREE STAGES IN THE JOURNEY

118. We propose that there should be three stages in a migrant's journey to naturalisation as a British citizen with clear requirements at each stage. The three stages are:

#### 1. Temporary residence

#### 2. Probationary citizenship

#### 3. British citizenship/permanent residence

#### 1. Temporary residence

119. This is the initial time-limited period during which economic migrants will contribute through taxes; where family members will be supported by their sponsor or will prove beyond doubt that they are self sufficient; and those in need of immediate protection will be allowed to stay. Those who do not qualify for probationary citizenship must leave the UK.

#### 2. Probationary citizenship

120. Probationary citizenship is a new stage which is time-limited to encourage migrants to complete the journey to citizenship and integrate fully into British society. It is intended to provide a stepping stone between temporary residence and British citizenship/permanent residence during which migrants will demonstrate that they have earned their right to British citizenship or permanent residence, and reflects the support we heard from the British public for some form of provisional citizenship.

#### 3. British citizenship/permanent residence

121. This is the stage at which people will complete the journey to citizenship or, if they feel unable to do so or are not immediately eligible for citizenship, permanent residency.

122. At present, approximately 60% of migrants granted indefinite leave to remain choose to become British citizens. We want to encourage those with the right values who want to settle in the UK permanently to complete their

19. There are five Convention reasons: race, religion, nationality, political opinion or membership of a particular social group. Granting Refugee status is subject to certain exclusions and dependant on the individual fulfilling further criteria. For full details see [www.bia.homeoffice.gov.uk/asylum/](http://www.bia.homeoffice.gov.uk/asylum/)

20. This is subject to certain exclusions, for the full criteria and what constitutes 'serious harm' see <http://www.bia.homeoffice.gov.uk/asylum/>

21. Subject to certain exclusions see <http://www.bia.homeoffice.gov.uk/asylum/>

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journey to citizenship, rather than choosing permanent residency. This is because we see the assumption of British citizenship as the completion of a newcomer's journey, and much more desirable as it aids successful integration. Once citizenship is obtained, a person ceases to be a migrant and can become fully integrated into our society, with equal rights - including full voting rights, the ability to apply for a British passport and eligibility for consular services when abroad - and responsibilities alongside all British citizens, regardless of their origin.

123. We recognise though that some people will feel 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 have taken this into account in the proposed architecture. We intend to provide a clear route for migrants to become permanent residents, as an alternative route to British citizenship, but all migrants will need to spend longer as probationary citizens if they choose this route. A shorter progression time to British citizenship from probationary citizenship is intended to encourage migrants to choose British citizenship above permanent residence.

### **3.4 GATEWAY PROTECTION PROGRAMME**

124. The Gateway Protection Programme is the UK's international commitment to offer permanent protection for refugees in vulnerable situations where resettlement in a third country is the only solution.
125. The Gateway Programme was established in 2002 and is run in conjunction with the UNHCR. At present, Gateway refugees are granted settlement on arrival in the UK with no requirement for an active review. Our view is that refugees arriving under the Gateway programme should not be subject to an active review and should move directly to permanent residence on arrival in the UK, recognising the fact that their status as refugees has already been established before their arrival in the UK.

### **3.5 OTHER CATEGORIES**

126. The objective of the new architecture described in this chapter is to create a new clear framework for the journey to citizenship and clarify the routes to British citizenship/permanent residence via probationary citizenship. However we recognise that there are three key categories where we should retain a direct route to permanent residence:
1. Those discharged from HM Forces who have completed 4 years service;
  2. Victims of domestic violence who were admitted as a partner of a British citizen or permanent resident and;
  3. Bereaved partners: those who were admitted as a partner of a British citizen or permanent resident and the sponsor has died during the 2 year probationary period.
127. In these cases we propose that individuals should move directly to permanent residence, provided that they meet the rules relevant to their category.
128. Our view is that those in the first category should benefit from this as they have demonstrated their commitment to the UK through their service in the armed forces. And that in the cases of victims of domestic violence and bereaved partners there are sound compassionate reasons for retaining the right to permanent residence.
129. We also need to determine the position of the 'UK ancestry' and 'retired persons of independent means' routes within the new system.
130. 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. Given that the proposed immigration system provides explicit routes to the UK for those coming as economic migrants, family members or refugees, we need to decide whether a Commonwealth national's ancestral connections to the UK are sufficient to allow them to come here to work without the need to satisfy a resident labour market test. We are therefore asking this question as part of the consultation contained within this paper. We will take the results of the consultation exercise into account before coming to a decision.

131. 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 benefits gained by migrants entering through this route are clearly not matched by the contributions they will make and we need to decide therefore whether the time is now right to abolish this route.
132. Again, this question features within the list of questions that we are asking in this consultation.
133. In setting out the new framework we also need to be clear about what we require of migrants to allow them to progress through the system. This is the subject of the next chapter.

## CHAPTER 3 'THREE ROUTES TO CITIZENSHIP AND THREE STAGES IN THE JOURNEY'

### Consultation Questions

1. Are all parts of the system set out here (i.e. the three routes to citizenship and the three stages in the journey) clear and easy to understand?
2. Do you think the concept of 'probationary citizenship' is a good idea?
3. Migrants of certain nationalities may choose not to become British citizens because of restrictions on holding more than one nationality in the law of their country of origin. Do you think that a permanent residence category should be provided for persons in this situation?
4. Do you think the 'UK ancestry' route should be abolished?
5. Do you think the 'retired persons of independent means' route should be abolished?

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## CHAPTER 4

# EARNING THE RIGHT TO STAY - WHAT WE REQUIRE OF MIGRANTS TO PROGRESS THROUGH THE SYSTEM

### 4.1 INTRODUCTION

134. At present the way migrants progress through the system is too complicated. This makes it hard to explain who is here and why, fuelling misconceptions that the UK is a soft touch, even though the reality is different. And we want the immigration system to do more to encourage newcomers with the right values and commitments to integrate with British life.

135. We need a journey to citizenship that:

- matches migrants rights more clearly with responsibilities;
- enables migrants to demonstrate a more visible and more substantial contribution to Britain and;
- we need to ensure that there are appropriate requirements that migrants have to meet at the citizenship and permanent residence stages, given the rights and benefits that are available at these stages.

136. This means not only simplifying the stages of a newcomer's journey to citizenship, but also ensuring that movement along the path is earned.

137. The stages in the journey were introduced in chapter 3. We believe that there are four ways in which the right to pass on from stage to stage should be earned:

1. Improving command of the **English language**
2. **Working hard and paying taxes:** applicants on the economic migration route must demonstrate their contribution to the economy by paying taxes and proving self sufficiency; and dependants of British citizens or permanent residents must demonstrate that they have sufficient funds to support themselves, with partners also

demonstrating the genuine nature of a relationship.

### 3. Obeying the law

4. Demonstrating **active citizenship:** we propose to speed up the passage through probationary citizenship for those who have demonstrated active engagement in the wider community

### 4.2 ENGLISH LANGUAGE

138. As detailed in chapter 2, 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.

139. Because we want to put British values at the heart of the immigration system we propose to strengthen the English language requirements within the journey to citizenship. We believe we should expect those with a long term future in the UK, whether as probationary citizens, permanent residents or full British citizens, to demonstrate progress in their grasp of English language and knowledge of life in the UK.

140. Evidence suggests that fluency in English increases the chance that an ethnic minority immigrant in the UK is employed by about 22 percentage points and raises their likely earnings by 18-20%<sup>22</sup>. Free ESOL provision is targeted at those most in need to support our objective of maximising the economic benefits of migration to the UK.

141. 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

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22. Language proficiency and labour market performance – the experience of immigrants to the UK, Christian Dustmann and Francesca Fabbri (Economic Journal, July 2003)

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. A table with full details of the ESOL language levels and how they relate to the Common European Framework of Reference (CEFR) is at Annex B.

142. 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.
143. Additionally, through the points based system we will expect the vast majority of workers to speak English. We are currently consulting on whether those seeking a marriage visa should also be expected to demonstrate some level of English ability. The consultation document can be found at:  
[www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/preentryenglishrequirement/](http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/preentryenglishrequirement/)

#### 4.3 MINIMUM TIME PERIODS FOR PAYING TAX, PROVING SELF SUFFICIENCY AND DEMONSTRATING GENUINE RELATIONSHIPS

144. Demonstrating a level of ability in English language is one of the requirements to progress through the new system. Another key requirement is that economic migrants seeking to progress through the system must demonstrate that they have paid their way in the UK over a period of time.

145. Also, family members of British citizens or permanent residents will need to demonstrate that they have sufficient funds to support themselves without becoming a burden on the state. Partners of British citizens and permanent residents will need to demonstrate the genuine nature of their relationship to progress through the system.

#### Temporary residents

146. Those who arrive as **economic migrants** with a potential route to permanent citizenship (i.e. Tier 1 and 2 of the PBS) would be eligible to become probationary citizens after 5 years, provided that they have demonstrated that they have contributed to the economy, including through the payment of taxes. Students in tier 4 of the PBS who switch into the highly skilled tier will have to complete 5 years as a highly skilled migrant in their own right before being eligible for probationary citizenship.
147. **Refugees** and those granted humanitarian protection will also be eligible for probationary citizenship after 5 years. But to qualify for probationary citizenship they will have to show that they are still in need of protection. If they are found not to be still in need of protection they will be required to leave the UK.
148. Those who qualify as **family** members of British citizens or permanent residents would be eligible to become probationary citizens after 2 years. To qualify for probationary citizenship they will need to demonstrate they can support themselves or be supported by their sponsor, who must be either a British citizen or a permanent resident. Partners will also need to demonstrate that their relationship is still subsisting.

#### Probationary citizens

149. To incentivise migrants to make the commitment to becoming British citizens and fully integrate into society, **probationary citizens would be able to apply for citizenship after a minimum period of 1 year.**
150. **Migrants who wish to become permanent residents**, on the other hand, by choice or because they are unable to become British

citizens, **would spend a minimum of 3 years as probationary citizens.**

151. To encourage migrants to actively contribute to the wider community, they will only be eligible to qualify for the minimum time periods (1 year for progression from probationary citizenship to British citizenship - and 3 years probationary citizen to permanent residence) if they have demonstrated such a contribution. See section 4.4 below for further details.
152. During the probationary citizenship stage, **economic migrants** would be required to be self sufficient, but not restricted to the employment for which they entered the UK.
153. Those on the **family** route will be required to demonstrate that they are self sufficient or supported by their sponsor and that their relationship is subsisting.

### Dependants

154. We believe that economic migrants should be able to bring dependants – but only partners and children. Not to do so would effectively split families apart. Dependants of economic migrants and refugees who accompanied the main resident on their arrival, and remained with them, would also need to spend the same amount of time in each category as the main applicant.
155. This will mean that highly skilled and skilled migrants (in tiers 1 and 2), their dependants, refugees and their dependants, and dependants of probationary citizens will need to complete 5 years as temporary residents in their own right before they are eligible for probationary citizenship. Dependants would also need to be supported by the main applicant, to have demonstrated English Language ability and knowledge of life in the UK and obeyed the law before moving to probationary citizenship.
156. Dependants who become probationary citizens will be eligible for British citizenship after completing a minimum period of 1 year in their own right and for permanent residence after a minimum of 3 years. To qualify for British citizenship and permanent residence dependants

will need to be supported by the main applicant and to have obeyed the law.

### Summary

157. The time periods that migrants are required to spend in each stage of the process are summarised in the table below.

Stage in the Journey to Citizenship	Time Period in that Stage
<b>Temporary Residence</b>	<p><b>1. Economic Migrants</b> (Highly skilled and skilled workers under Tiers 1 and 2 of the PBS - and dependants) Five years</p> <p><b>2. Family</b> (Family members of British citizens and permanent residents) Two years</p> <p><b>3. Refugees</b> (Refugees and those granted humanitarian protection - and dependants) Five years</p>
<b>Probationary Citizenship</b>	<p>All three routes (economic migrants, family and refugees) have the same time periods in this stage:</p> <ul style="list-style-type: none"> <li>o To progress to <b>citizenship</b>: a minimum of <b>one year</b></li> <li>o To progress to <b>permanent residence</b>: a minimum of <b>three years</b></li> </ul>
<b>Permanent Residence</b>	<p>Persons in this category can remain in the UK indefinitely, but can progress to British citizenship, if they meet the criteria.</p>
<b>British Citizenship</b>	<p>Completion of the journey. Full rights and benefits.</p>

#### 4.4 THE EFFECT OF CRIMINAL ACTIVITY ON A MIGRANT'S JOURNEY THROUGH THE SYSTEM

158. We expect those who come here to respect British values and abide by the rules, as set by Parliament.
159. We have adopted an increasingly robust approach within the immigration system to migrants who break the law in recent years. Foreign national prisoners who meet the relevant criteria are no longer released without considering deportation. We have amended the Immigration Rules to reduce the grounds on which deportation might be prevented, and we have legislated through the UK Borders Act so that foreign prisoners convicted of serious crimes will face automatic deportation unless one of a narrow set of exceptions applies. At the same time, we have secured record numbers of removals of Foreign national prisoners, removing 4,250 in 2007.
160. But we need to go further. We are entitled to expect migrants who aim to settle permanently in this country to act responsibly and to abide by our laws. On 1st January 2008 we tightened our policy on citizenship so that foreign nationals will not normally be allowed to become British if they have criminal convictions<sup>23</sup>. This means all those given sentences of 30 months or more will normally never be entitled to citizenship.

#### Slowing a migrant's journey to permanent residency

161. Migrants with criminal convictions falling within our deportation criteria will not be allowed to progress to probationary citizenship and will be removed from the UK. Even where there are legal barriers to removal, those who have such convictions, and/or are excluded from asylum or international protection, will be prevented from progressing to probationary citizenship.
162. For less serious criminal offences<sup>24</sup>, we are proposing the following approach. If a temporary migrant has been to prison, their

application for probationary citizenship would be refused. They would then be subject to removal action at the end of their temporary residence in accordance with the Agency's priorities. The one exception to this is where removal would breach our obligations under the Refugee Convention or the ECHR. In such cases, we would propose to make the individuals concerned complete 5 years as probationary citizens before being eligible for permanent residency in the UK.

163. We propose to adopt a similar approach to crimes committed by migrants while probationary citizens. If they commit a crime falling within our deportation criteria, then we would seek to deport them. If they go to prison for a lesser offence, we would refuse any application for citizenship or permanent residency and seek to remove them.
164. As well as taking a robust approach where newcomers have been to prison, there will be consequences for those involved in minor criminality. One approach would be that where a newcomer has a criminal conviction for an offence that did not attract deportation, and which did not involve a custodial sentence, they should still be made to spend at least one extra year as a probationary citizen before being eligible for permanent residence. A further approach would be to consider preventing newcomers from becoming probationary citizens even where they had not been given a prison sentence, but where the crime involved violence, drugs or a sexual offence. This would demonstrate that we expect the highest standards and that are consequences for those who do not respect the law. There may be a need for an element of discretion - for example, waiving treatment of offences that resulted in a binding-over order, absolute or conditional discharge. However, we would normally extend the period in probationary citizenship by two years if there is a repeat offence below the level attracting a prison sentence. We are consulting on this approach.

23. Subject to provisions of the Rehabilitation of Offenders Act 1974

24. Subject to the provisions of the Rehabilitation of Offenders Act 1974

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165. We believe that parents have the ability to shape and influence their children's behaviour and that they should be encouraged to do so.
166. In line with this thinking we are considering whether progression to citizenship or permanent residence could be stopped or delayed for those whose children commit criminal offences. We do recognise there are a number of issues and concerns, both in operational and policy terms, related to this that will need to be developed and explored before such a proposal could be introduced. We would welcome views on this proposal.

#### 4.5 ACTIVE CITIZENSHIP

167. We want to do more to encourage all migrants who wish to stay in the UK permanently to integrate fully into society, including bringing probationary citizens in greater contact with the wider community, showing current British citizens that those seeking to join them as British citizens are earning citizenship by being active rather than passive participants in UK life, and seeking to encourage those who become British citizens to carry on contributing to UK society in a positive way by opening them up to new experiences, which could become life long roles.
168. We believe that people who have demonstrated their commitment to the UK by playing an active part in the community should be allowed to complete their journey to citizenship more quickly than others who have chosen not to do so.
169. We therefore propose that probationary citizens who have demonstrated some form of community involvement would be able to apply for citizenship after a minimum period of 1 year as a probationary citizen. Migrants who do not would be eligible to apply for citizenship after a minimum period of 3 years.
170. Migrants who wish to become permanent residents and who have demonstrated active citizenship would spend a minimum of 3 years as probationary citizens. Migrants who do not would be eligible to apply for permanent residency after a minimum period of 5 years.
171. Many people seeking citizenship or permanent residence will already contribute in this area and are already engaged with UK society as active members of their local community by undertaking voluntary work, or serving as a school governor, for example.
172. Overall active citizenship seeks to make becoming a British citizen much more significant and meaningful than simply filling in an application form as the migrant will need to demonstrate that they have played an active role in their community.
173. There are a number of practical issues to consider to ensure a requirement of this nature can operate in practice, including a number of issues of capacity.
174. We do not want to be overly prescriptive about the type of active citizenship that will be required. It is essential to recognise the differing levels of capacity that individuals will have to undertake activities in addition to existing work and family commitments. And of course, the capacity of organisations responsible for activities will vary across geographical areas and at different times of the year. Building on the points raised in our public listening events, we will ensure we take account of activities that have occurred at any point since the migrant's arrival in the UK.
175. As the purpose is to encourage those we allow to become British citizens and permanent residents to play an active role in their communities and demonstrate a contribution, we are proposing that migrants should be able to demonstrate active citizenship through a wide variety of activities.
176. Some of the activities already in existence which we believe would constitute active citizenship:
- Volunteering with a recognised organisation
  - Employer supported volunteering
  - Volunteering activity, which may involve short periods overseas, to support the UK's international development objectives.

- Running or helping to run a playgroup which encourages the different communities to interact
- Fund-raising activities for charities or schools
- Serving on community bodies, for example as a school governor
- Running or helping run a local sporting team

177. We need to ensure that migrants are able to provide evidence that they have undertaken such activities in a way which safeguards against abuse while avoiding unnecessary bureaucracy.

178. Our proposal for creating safeguards within the system is to use **written evidence** from a **referee**. This would build on the current application process for citizenship, which requires applicants to submit details of two referees who have known the applicant personally for three years. Knowingly making a false declaration can lead to a penalty of up to 3 months' imprisonment or a fine not exceeding £5,000.

179. Under our proposal, migrants who have contributed to their community would be required to provide a third referee to confirm personally the evidence of active citizenship provided by the applicant, with the same potential penalties applying.

180. This would place the onus on the referee to substantiate the activity, and represents a cost-effective and 'light-touch' regime, which nonetheless provides a clear deterrent for anyone seeking to abuse the process.

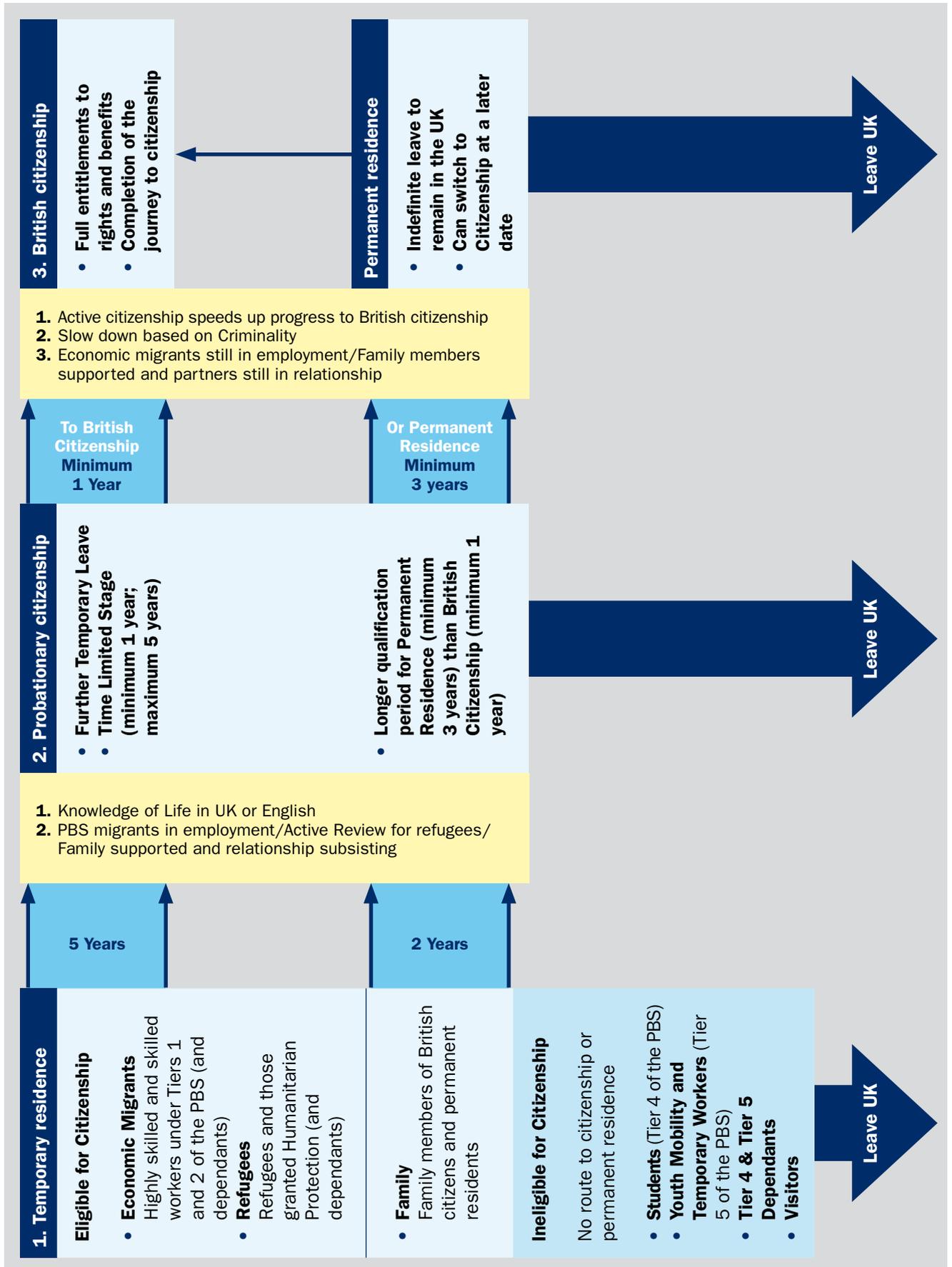
181. Given the potential benefits to migrants themselves as well as the benefits for community cohesion, we would also welcome views on whether there should be a minimum level of active citizenship as a requirement before a person can become a British citizen or permanent resident. We are sensitive to the notion of compulsion in this area, but believe that there may be a case for a minimum requirement. We would be particularly interested in views on what this level might be, and are therefore consulting on this issue.

## 4.6 SUMMARY

182. In this chapter the requirements to progress through the new system, and the time periods that migrants will spend at each stage were detailed.

183. The below figure shows the architecture of the proposed system, with the addition of the time periods at each stage and the requirements to progress between the three stages.

Figure 2. The new system: entry to citizenship, including time periods and progression requirements



## CHAPTER 4 'EARNING THE RIGHT TO STAY': WHAT WE REQUIRE OF MIGRANTS TO PROGRESS THROUGH THE SYSTEM

### Consultation Questions

1. Are the proposed minimum time periods for a migrant to complete the journey to British citizenship suitable?
  - a. 6 years for economic migrants (under Tiers 1 and 2 of the PBS) and their dependants
  - b. 3 years for family members of British citizens/permanent residents
  - c. 6 years for migrants given protection (those granted refugee status and humanitarian protection) and their dependants
2. Are the proposed minimum time periods for a migrant to complete the journey to permanent residence suitable?
3. Should partners of British citizens or permanent residents be required to demonstrate that they are in an ongoing relationship with the citizen/permanent resident before progressing:
  - a. from the probationary citizenship stage to British citizenship?
  - b. from the probationary citizenship stage to permanent residence?
4. Should Gateway Refugees continue to be granted permanent residence on arrival in the UK?
5. Active Citizenship
  - a. Should 'active citizenship' be a means by which probationary citizens can speed up their journey British citizenship or permanent residence?
  - b. Should 'active citizenship' be a mandatory requirement for all probationary citizens to qualify for British citizenship or permanent residence?
6. Should the following activities be viewed as demonstrations of 'active citizenship'?
  - a. Volunteering with a recognised organisation or charity
  - b. Employer supported volunteering
  - c. Volunteering with a recognised organisation to support the UK's international development objectives, including short periods of time overseas
  - d. Running or helping to run a playgroup which encourages the different communities to interact
  - e. Fund-raising activities for charities or schools
  - f. Serving on community bodies, for example as a school governor
  - g. Running or helping run a local sporting team
7. Do you think that committing a crime which attracts a custodial sentence should slow down or stop a migrant's progression to permanent residence?
8. Do you think that committing an offence which does not attract a custodial sentence should slow down or stop a migrant's progression to permanent residence?
9. Do you think progression should be stopped or delayed for those whose children commit criminal offences?

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## CHAPTER 5

# THE IMPACT OF MIGRATION AND ACCESS TO BENEFITS AND SERVICES

### 5.1 INTRODUCTION

184. There is a widespread public perception that migrants in general are a major burden on public services. In reality this is not the case - migrants are on average net fiscal contributors - but we believe that migrants can place certain transitional pressures on public services, and we do need to take account of these pressures.
185. Our response to concerns about the impact of migrants on public services must address whether there are options to alleviate pressures on those services.
186. We must be clear that the average migrant makes a greater contribution to the provision of public services than the average non-migrant. On average migrants pay more tax than non-migrants and consume fewer public services. For example, research by the Institute for Public Policy Research (IPPR) in 2005 estimated that migrants had a positive influence on public finances - accounting for 10 per cent of government receipts and 9.1 per cent of government expenditure in 2003-04.<sup>25</sup> But, whilst this reflects the overall position, the contribution of an individual migrant will be affected by factors which include the number of his or her dependants, and household salary level.
187. We want to:
- clarify which benefits and services migrants can access at each stage of the process;
  - assess how we can simplify what are often complex pieces of legislation spread across different Government Departments; and
  - consider whether migrants should be required to pay an additional fee to help alleviate the transitional pressures that migration can bring.

### 5.2 ACCESS TO BENEFITS AND EDUCATION

#### Temporary Residents

188. It is a common misconception that migrants have access to all benefits and services once they arrive in the UK and regardless of whether they have come here to work, study, join a loved one or to claim protection. In fact, restrictions are already in place and, in the new system we have set out, we will make absolutely clear which benefits and services migrants can access at each stage so that the rights newcomers enjoy reflect the commitments they make.
189. It has been a long standing policy that those entering under the economic 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.
190. Most people see the welfare state as a something for something deal. We have reformed for example the pensions system to modernise the contributory principle. This is the same thinking that must inform our reforms to the rights that newcomers earn. As now, temporary residents will not have access to local authority housing, and will only be able to access a limited number of National Insurance based benefits, but only once they have paid for them. Newcomers will be required to send their children to school like everyone else. Limited exceptions to this general position will be where we are meeting our commitments under international agreements.
191. The number of people claiming asylum in the UK is down to the lowest level since 1993. And refugees and those granted humanitarian protection will continue to be entitled to all benefits and services, **including access to FE 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

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25. [www.official-documents.gov.uk/document/cm72/7237/7237.pdf](http://www.official-documents.gov.uk/document/cm72/7237/7237.pdf)

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.

### Probationary citizens

192. This is the new stage in the process and we have considered carefully the entitlement to benefits that should apply. There will be three main groups of people who are allowed to proceed to this stage: highly skilled and skilled workers who have entered under the points-based system and have been working and paying tax; the partners/children of British citizens or permanent residents admitted under the family route; and refugees.
193. Migrants in this stage will be on a path towards British citizenship or permanent residence. Their permission to remain in the UK will, however, continue to be time-limited. It will also be subject to them demonstrating that they can continue to support themselves without recourse to public funds, that their relationship is subsisting, and that they are abiding by our laws.
194. 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.
195. **Probationary citizens will not therefore be entitled to access mainstream benefits or local housing authority.** 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.
196. Probationary citizens will continue to be required to send their children to school for

compulsory education, and have access to NHS care. However, we consider it is right to also allow access to ESOL further education<sup>26</sup> 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 DIUS consultation on focusing ESOL more effectively on community cohesion.

197. Higher education<sup>27</sup> at the ‘home rate’, however, will continue to be accessible only when a migrant becomes a British citizen or permanent resident. Until such time, higher education is available to those with limited leave at the ‘overseas rate’ provided they meet the entry requirements of the individual college or higher education institution. Education is devolved and as such, the further and higher education sector works differently in Scotland and Northern Ireland. Further consideration will be given to the impact of charging probationary citizens ‘home rate’ tuition fees in respect of further education only in Scotland and Northern Ireland.

### British citizens and permanent residents

198. 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.

### 5.3 ACCESS TO HEALTHCARE

199. The Department of Health and Home Office are currently undertaking a joint 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.

26. ‘Further education’ is the type of learning or training that takes place after the age of 16, but before degree level.

27. ‘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.

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## 5.4 NEXT STEPS

200. The overall position in respect of benefits is therefore based on a system where rights are ‘earned’. It is quite simply not the case that migrants can access all cash benefits on arrival - and the new system reinforces this approach. With limited exceptions, it will not be until they have earned the right to be a British citizen or a permanent resident that such access will be available - and only then if they meet the general eligibility criteria. This approach supports our objective of maximising the benefits of migration while minimising abuse of the system and mitigating the impact of migration on public services.
201. Within these clear policy parameters, there is an important process of assessing how we can simplify the legislation governing access to benefits and services. Due to the range of Government Departments responsible, devolution and the effects of international agreements, 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 will therefore work with other Departments to review all legislation governing migrants’ access to benefits and services to ensure it is as clear and consistent as possible.
204. This calls for public service providers to respond quickly to this challenge and the Migration Impacts Forum is already discovering evidence of good practice and sharing it more widely.
205. However we believe that with a relatively small amount of additional money, we could alleviate some of the short-term pressures resulting from migration.
206. We will therefore set up a fund which will allow us to release limited amounts of money quickly and responsively.
207. Money for the fund will be raised through increases to certain fees for immigration applications, with migrants who tend to consume more in public services – such as children and elderly relatives – paying more than others. We will work closely across Government to develop a clear and transparent methodology for the appropriate surcharge.
208. We would aim to raise tens of millions of pounds, with the fund operating from April 2009.

## 5.5 A FUND TO MANAGE THE TRANSITIONAL IMPACT OF MIGRATION

202. While migrants overall make a positive economic contribution they also use public services.
203. While national statistics and general funding formulae distribute resources using the best data available at the time in order to ensure that they respond to patterns of population change, including migration, and we are consistently improving our systems for doing this, we recognise that occasionally there can be transitional impacts on the provision of public services in communities which might be subject to particularly rapid change at the local level.
- Improvements already being made**
209. We are consistently improving our systems. In distributing formula grant to councils, we use the best data that are on a consistent basis across all local authorities and available to us at the time we make the calculations. In the case of population, these are the sub-national projections produced by the Office for National Statistics (ONS). The ONS data are the best available but of course, like any data, they can be improved. That is why we welcome the improvements ONS have already made to the distribution methodology of international migrant numbers to Local Authorities. The Government has provided a fair settlement for local government over the next 3 years which will deliver an increase of more than £900 million in the first year (08/09) alone. We have also provided additional support to help authorities achieve efficiencies, and increased flexibility to enable authorities to respond to local priorities. We are investing £50 million over the next three years to promote community

cohesion and support local authorities in preventing and managing community tensions.

210. In addition, the Department for Children, Schools and Families (DCSF) is introducing a new Exceptional Circumstances Grant from 2008-09, worth around £10m a year, which will be paid to local authorities experiencing large influxes of pupils between the January and September pupil counts. This includes elements to cover unexpected increases in overall pupil numbers and in the number of pupils for whom English is an Additional Language (EAL), and also a lump sum to help schools build EAL infrastructure.

## CHAPTER 5: THE IMPACT OF MIGRATION AND ACCESS TO BENEFITS AND SERVICES

### Consultation Questions

1. Should probationary citizens who have entered the UK through the economic or family routes have access to benefits **in addition** to those based on National Insurance contributions?
2. Further and Higher Education
  - a) At which stage in the journey to citizenship do you think further education for the same fees as British nationals (rather than at the higher 'overseas rate') should be available?
  - b) At which stage in the journey to citizenship do you think higher education for the same fees as British nationals (rather than at the higher 'overseas rate') should be available?
3. Should non-EEA migrants entering through the economic and family routes pay an additional charge on top of existing application fees in order to create a fund to manage the transitional impact of migration which would be used to alleviate short-term pressures on local public services caused by migration?

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## CHAPTER 6

# EEA NATIONALS

211. Migration remains top of the political agenda across Europe. Within that context we believe that European Member States should work together to ensure EEA Free Movement is of benefit to all and that EEA migrants contribute fully to our society. Therefore the Government will review access to benefits for EEA migrants, and what more can be done to disincentivise and punish criminality. We will set up two cross-departmental teams to look at these issues and will develop proposals to put to EU partners.
212. European Economic Area (EEA)<sup>28</sup> nationals do not require leave to enter or remain to reside legally in the UK, although they must demonstrate this entitlement on arrival by providing for inspection valid documentation such as a passport.
213. British citizens also enjoy this ability to travel and live without restriction in other Member States, whether on business, on holiday, or choosing to live permanently in another part of an enlarged Europe.
214. The reforms to the immigration system proposed in this paper do not affect the rights of EEA nationals and we will continue to set out the law in this area in separate regulations. These draw on a long tradition of parliamentary support for freedom of movement regulations.
215. We recognise that free movement within Europe brings with it fresh challenges and we need to be sure we understand the transitional impacts that this can have. That is why we have taken a gradual approach to opening our labour market to Bulgarians and Romanians and why we have created the Migration Impacts Forum (MIF) that will involve and understand the experience of people from the frontline. The MIF will deliver practical evidence around what works to manage those impacts, and ensure that stakeholder concerns can inform Government thinking.
216. By highlighting the best practice already carried out by so many local services throughout the country, we will be in a strong position to help other areas to respond to changes.

### Obeying the law

217. With the right of free movement comes an expectation that EEA nationals will not abuse our welcome by committing criminal acts. We will enforce three principles:
- First we take a robust approach to such behaviours - that is why we deported over 500 EEA nationals last year and will continue our robust approach. To build on this we are deepening collaboration with European partners to look at best practice in dealing with criminal activity by EEA nationals, and are identifying where we can take further steps to address those who abuse the rights of free movement.
  - Second we will enforce the EU Framework Decision on prisoner transfer, which is expected to come into force from 2011, making it easier to return EEA nationals to their country of origin to serve out their sentence.
  - Third we will improve the exchange of information on criminal records between Member States, allowing us to have a full record of any previous criminal activity within Europe when dealing with EEA nationals. We will review whether this could be extended to cover criminal records relating to all people within the Member States – not just EEA nationals. It is only through effective partnerships with other Member States that we can ensure that the negative activities of a minority do not overshadow the genuine benefits enjoyed by the large majority of law-abiding citizens.

### Access to benefits

218. We also recognise that there are concerns that some EEA nationals may become a burden on the State, rather than contribute positively to our economy as the vast majority are doing. That is why we are also taking a robust approach in terms of access to benefits for EEA nationals.

28. Nationals of EU Members plus Iceland, Liechtenstein and Norway.

219. Restrictions have been put in place to prevent EEA nationals from accessing benefits where they come to the UK as benefit tourists without any intention of exercising their treaty rights by working, studying, being self-employed or self-sufficient. We will continue to work across Government to assess the entitlements of EEA nationals.

### **Language and Integration**

220. We have made it clear that we consider English language skills to be a crucial factor in a migrant's ability to integrate with British society. And as the number of short term migrant workers from EEA countries has increased, so this issue has become more important. We believe that it is essential that employers train their workers to the required standard of English for safe and inclusive working. The Department for Innovation, Universities and Skills (DIUS) has already initiated a package of measures to encourage employers' contributions to the costs of ESOL for work. How best to strengthen engagement with employers on this issue is an ongoing aspect of the wider ESOL policy consultation, which proposes the refocusing of mainstream FE funding to the most socially disadvantaged, and those from settled communities<sup>29</sup>.

221. This is part of our wider work on the integration of EEA nationals. We intend to continue to work with other member states with similar concerns to determine how we can improve the integration of EEA nationals and develop the cohesiveness of our communities.

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29. 'Focusing English for speakers of Other Languages (ESOL) on community cohesion', DIUS, available at [www.dius.gov.uk/publications/esol\\_consultation.pdf](http://www.dius.gov.uk/publications/esol_consultation.pdf)

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## CHAPTER 7

# SIMPLIFYING THE SYSTEM AND REFORMING THE LAW

222. As we look to reform the path to citizenship and continue to transform the immigration system, we need to simplify the law's current complexity and make it fit for the 21st century. Making the law more straightforward and comprehensible will boost the effectiveness of our decision-making and enforcement, give applicants a clearer picture of their prospects and help improve public confidence in the immigration system.

### 7.1 SIMPLIFICATION PRINCIPLES

223. The key principles which underpin the simplification process are **that it should maximise:**

- transparency, for staff within the new UK Border Agency, for applicants, for other stakeholders and for the wider public;
- efficiency, with a system friendly to all its users, within which it is quicker and easier to make the most appropriate decision;
- clarity and predictability for applicants and sponsors, reducing the need to rely on advisers to navigate the system;
- plain English, avoiding technical jargon wherever possible; and
- public confidence in a comprehensible system.

**and that it should minimise:**

- the need for further legislation;
- reliance on concessions outside the normal rules;
- the need for decision-makers to exercise discretion;
- inconsistencies between different parts of the system;
- duplication, including parallel provisions in different areas for broadly comparable circumstances; and

- gaps in powers to resolve cases fairly, speedily and effectively.

224. Our starting assumption is that these principles should underpin all the work of the Agency, as it increasingly builds its systems and processes around three basic functions:

- first, receiving applications from those who want to come to or stay in the UK (register);
- secondly, deciding those applications (decide);
- thirdly, implementing those decisions (conclude).

225. A further starting assumption is that we will in the future continue to require a broadly three tier framework:

- essential overarching provision set out in a single piece of primary legislation;
- more flexibility below that level with clear and consistent immigration rules, which are capable of quick adjustment in response to changing circumstances, alongside any other necessary secondary legislation; and
- shorter, sharper and consistent operational guidance, but only where that is necessary – we would like the rules to speak for themselves and to set out clearly the criteria on which decisions will be taken.

### Progress

226. The initial consultation exercise last summer confirmed widespread support for the aims of simplification and for this general approach. It also generated a range of detailed and specific ideas for the change of the law and procedures. These have been logged and will be addressed as the work to develop the new legal framework proceeds. At this stage we are setting out our thinking on a number of key concepts and the overall architecture for the new legislation.

## Simplifying the legal architecture

227. Reform of the legal framework will clarify the basic concepts which are the building blocks for the immigration system. It will continue the process, begun with the Points-Based System, of spelling out more clearly and transparently the routes to the UK and the criteria for our decisions.
228. We will begin by redefining some of the basic concepts in the law to express them more simply and clearly.

### We propose the new law should provide that:

- Everyone who is not a British citizen requires “permission” to be in the UK for his or her presence here to be lawful.
- Some are **entitled** to such permission automatically (e.g. EU nationals exercising Treaty rights). They may be required to demonstrate their entitlement, for example through the presentation of a document when passing through a port. In specified circumstances permission may be withdrawn from an individual who was previously entitled to it (e.g. following conviction of a criminal offence).
- Others must **apply** for permission. Permission can be given before travel to the UK, on arrival or after entry. (A visa is a permission issued outside the UK which defined categories of applicant are required to obtain before travelling.)
- Anyone who requires permission to be in the UK and does not have it must leave and is liable to expulsion.
- A person is “in the UK” if physically present here, including when at a port of entry – and including when in transit airside.

229. Entry clearance, leave to enter and leave to remain are currently separate concepts, although changes to the law since the Immigration Act 1971 have blurred the distinctions between them. The new unified concept of permission will be simpler and easier to understand and use.
230. Permission – in the form of a visa – will normally be required before travel to the UK, although this requirement may be waived for specified nationalities and categories of application. We will be starting to make changes to visa regimes in 2008/9 as a result of the new visa waiver test. This is an assessment against a series of benchmarks of whether a visa regime should be maintained, lifted or imposed. This approach is consistent with the principle that permission is required prior to travel except when it is safe to waive this requirement.
231. At present the law specifically distinguishes between physical arrival in the UK and “entry”. This can be artificial, particularly when a passenger is given “temporary admission” for what can be an extended period while the question of “entry” is still being considered. We want to remove that artificiality and we will consider further the best way of addressing cases at the border when prolonged consideration is necessary and detention is not appropriate.
232. An approach of requiring permission for being physically present in the UK will mean that there will be a general requirement for passengers changing planes at UK airports without passing through passport control (in “direct airside transit”) to have permission. This requirement would in practice be waived for most nationalities. At present it is the other way around - a specific requirement to obtain a direct airside transit visa is imposed on nationalities which represent a control problem.
233. At present some immigration powers are vested in the Secretary of State, some in Immigration Officers and some in Entry Clearance Officers. In future powers will generally be vested in the Secretary of State and allocated to individual members of staff or groups of staff as the efficient handling of business requires. But,

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as now, specified coercive powers will only be exercised, and other specialised roles will only be performed, by specially trained and designated staff. The creation of the UK Border Agency (bringing together the Border and Immigration Agency, UKvisas and Customs work at the border) raises particular issues about the formal allocation of powers which are being considered as work to build the new Agency progresses.

234. There will be less reliance on the concepts of some groups who are not British citizens being “exempt” from immigration control or having a “right of abode”: instead, they will have an entitlement to permission. As we develop the legislation we will consider how best to deal with these groups in the new system.
235. Within this approach we will ensure that there is a greater distinction between temporary and permanent migrants and a clearer route to citizenship. Our proposals for defining the route to citizenship are set out in chapters 3-5 above.
236. In the sections which follow we look in turn at particular areas of current immigration law, setting out briefly the developments which a new legal framework must support, identifying issues which have been raised about the current law, and setting out a broad approach for the new legislation.

## **7.2 RECEIVING AND REGISTERING APPLICATIONS**

### **Context**

237. The law in this area must take account of the wide-ranging changes that have been made to the way in which the Agency does its work and the further changes which are underway or being planned. End-to-end case ownership in asylum and the Points- Based System for managed migration represent fundamental changes to our processes.
238. For the future, the Immigration Case Work programme (ICW) is a far reaching change programme that focuses on improving business processes and renewing the supporting information technology systems to establish new and better ways of working, linking all

business activities to the person, rather than to isolated cases or events associated with a person. This will mean an end-to-end perspective emphasising the commonality of key case working processes in different parts of the agency, rather than ad hoc solutions to specific isolated problems. ICW will take account of lessons learned from past business change and technology implementation programmes as well as from good practice in other business areas both in the public and private sectors.

239. All this means that the initial stage of our decision-making processes must be an effective and consistent system for receiving and registering applications. This is clearly linked to our developing systems for identity management and the use of biometric information, as referred to below.

**We propose that the law should provide that:**

- Applicants will need to comply with the procedures for making an application, which will be set out in the immigration rules.
- The requirements may include the provision of specified evidence to support an application and the provision of biometric data.
- Specified categories of application must be accompanied by a fee.
- Following a successful application, the fact that permission has been given will be demonstrated by a sticker or stamp in the applicant's passport and/or the issuing of a residence permit or another document. The duration, purpose and conditions will be clear on the face of any document demonstrating permission.
- There will be a number of general grounds for the refusal of applications and the cancellation of permissions which have already been granted.
- There will be clearly defined scope for positive discretion to grant permission in exceptional cases where a person does not qualify under the immigration rules. (Our simplification principles include minimising the scope for discretion in accordance with a more objective and transparent approach to decision-making. This attracted a great deal of comment in the initial consultation and we are clear that some scope for discretion must be retained. We are considering further how best to set this out in the law.)

**Key differences from current law:**

- Greater clarity of the requirements for a valid application to be made.
- General grounds for refusal and cancellation will be set out more clearly and with greater consistency across the different parts of the system.

**7.3 PROTECTION****Context**

240. We remain fully committed to meeting the United Kingdom's obligations under the 1951 Refugee Convention and other international instruments. But experience has shown the potential for misuse of our procedures by applicants who have no need to seek protection from us. We need to ensure that our systems are robust, fast and fair. Over the next three years we will continue to fast-track asylum decisions and by the end of 2011 aim to conclude 90% of all asylum cases within 6 months, with applicants either being removed or being granted protection in the UK. To achieve this milestone, we will continue to ramp up our performance so that we grant or remove 60% of new asylum claimants by December 2008, and 75% by December 2009. In support of this, all new applications for asylum are now routed to regional asylum teams and a single case owner is managing each new application from the beginning to its conclusion. Simplification will assist this process of forming a single, comprehensive view of the case.

**Issues with the current legislation:**

241. The impact of our obligations under international and European law, and the manner in which they have both been incorporated, together with the gradual development of domestic law, means that the overall position is not always clear. There is particular complexity in the range of provisions covering support for asylum seekers and failed asylum seekers.

### **We propose the law should provide that:**

- As now, a person requiring permission to be in the UK may, while in the UK, apply for protection: claiming that it would be contrary to the UK's obligations under the Refugee Convention or the European Convention on Human Rights for him to be required to leave. The substance of such an application will not be considered if it can be established that the applicant is returnable to a safe third country. When an application is considered and the applicant does not qualify for asylum as a refugee, eligibility for humanitarian protection will also be considered before the application is refused.
- The criteria for qualification for protection and the procedures for considering applications will accord with the relevant EC Directives.
- The criteria should be brought together in the immigration rules.
- Minimum standards under the Reception Conditions Directive will continue to underpin support arrangements for asylum seekers but we will also streamline the legal framework in this area.

### **Key differences from current law:**

- Currently some relevant provisions are set out in the rules, others in different primary and secondary legislation. We propose to move to a more coherent framework with the criteria for qualification for protection brought together in the immigration rules.
- We are currently working-up proposals for reform of asylum support legislation, including the potential for a single provision covering support provided to asylum seekers, failed asylum seekers and their dependants. This will mean that provisions concerning areas such as offences and data sharing will apply to all. However, there are likely still to be different support regimes and eligibility criteria depending on where the individual is in the asylum process. We are also considering how to incorporate provision for others supported by the Agency.

## **7.4 THE BORDER**

### **Context:**

242. Major changes are underway in how we organise to operate at the border and in how we use developing technology to improve our security. Our legal framework needs to evolve to reflect and support those changes.
243. We are creating a new UK Border Agency to strengthen border security. The new Agency will have responsibility for tackling smuggling as well as border control. There will be one single primary checkpoint for passport control and customs. The new Agency will apply controls at points of entry and exit on people and goods, into and out of the UK, as well as working throughout the world.
244. By 2014, the e-Borders Programme will deliver the electronic screening of all passengers as they check in and out of the UK, and allow journeys to be recorded and individuals to be counted into and out of the UK. 95% of journeys will be covered by the end of 2010 and we will increase coverage for all entry points into and out of the UK when the programme rollout concludes in 2014. We will increasingly use automated biometric controls at ports of entry for trusted travellers.

### **Issues with the current legislation**

245. The new law will clearly need to support the development of the UK Border Agency. We have also noted more specific issues to be addressed in reforming the law in this area. There is a lack of clarity in a range of powers to cancel and revoke visas and leave to enter or remain in different circumstances and the current use of "temporary admission" can be confusing, with individual passengers who are sometimes physically present in the UK for extended periods without legally having "entered".

**We propose the law should provide that:**

- In the case of the Channel Tunnel and specific sea routes to the UK arrangements may be made for the operation of juxtaposed controls, where the UK's normal on-entry controls are operated in another country, and vice versa.
- Everyone who requires permission to be in the UK should apply for permission (in the form of a visa) before travelling to the UK, unless the need for them to seek prior permission has been waived. This waiver may be for certain nationalities, for certain durations or purposes of stay, or a combination of those factors. If the need to seek prior permission has been waived, passengers without permission will need to apply on arrival in the UK.
- Permission can be cancelled at any stage, including before the passenger arrives in the UK in certain defined circumstances. These include if there is a change of circumstances, a change of purpose, evidence of material deception, or if the passenger's presence in the UK would not be conducive to the public good (e.g. because of their previously undeclared criminality).

- All passengers arriving in the UK are liable to examination. British citizens and those with an automatic entitlement to permission need to present specified documentary evidence of their status. Passengers with visas or other forms of permission remain liable to be questioned to establish whether there are grounds for cancellation of permission. Passengers without permission will be questioned to establish whether they should be given permission.

**Key differences from current law:**

- Applying the new concept of "permission" to be in the UK, with a "visa" being permission given to an applicant who is outside the UK.
- The various procedures for cancellation and revocation will be simplified into cancellation of permission. This will be possible at any stage in the migrant's journey if specified conditions are met.
- We will look further at the best approach to temporary admission within the new legal architecture we are proposing.

**7.5 PURPOSE OF ENTRY AND STAY****Context**

246. As the earlier chapters make clear, we are already introducing the most sweeping changes to the immigration system in its history. The Points-Based System constitutes a fundamental overhaul of the routes into the UK for migrants seeking to work, train or study in the UK. It will rationalise over 80 existing routes for workers, trainees and students into five tiers and will also put greater responsibility for migrants on those who directly benefit from them, such as employers and educational establishments. These organisations will have to be approved by the Agency as sponsors before individuals can apply for permission to work, train or study here.

247. We have separately consulted on reforming our approach to visitors

[www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/visitorsconsultationpaper/](http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/visitorsconsultationpaper/)

and to strengthening the way we deal with people coming here to marry

[www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/mariagetopartnersfromoverseas/](http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/mariagetopartnersfromoverseas/)

[www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/preentryenglishrequirement/](http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/preentryenglishrequirement/).

The task now is to ensure that all routes of entry to and stay in the UK combine to form a coherent and comprehensible whole.

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## Issues with the current legislation

248. We need to embody in legislation the new approach to the path to citizenship which is set out in the earlier chapters of this document. There also needs to be further rationalisation of the managed migration routes into the UK building on the Points-Based System. The categories in the immigration rules for entry into and stay in the UK have built up piecemeal over time. All this will enable us to give a clearer account of which migrants are eligible to progress to permanent residence and citizenship and the routes by which they may do so.

### We propose that the new law should provide that:

- The Points-Based System, the implementation of the new proposals in this paper and the results of our separate consultations on marriage and visitors should be integrated to form a coherent and comprehensive account of routes for entry into and staying in the UK.

### Key differences from current law:

- Details of the Points-Based System and other managed migration routes will be set out in the immigration rules, as at present, but the rules will change significantly, setting out clearly and objectively how migrants may qualify for permission in the different routes.

through shutting down fraudulent access to benefits and services, tackling illegal working, and removing more of the people who are not entitled to be here.

250. In implementing the cross-Government enforcement strategy published last year, the Agency has developed new partnerships with the police, HMRC, the Department for Work and Pensions (DWP), the Gangmasters Licensing Authority (GLA), the Health and Safety Executive (HSE) and the Department for Business, Enterprise & Regulatory Reform (BERR). It has restructured intelligence functions into a national and regional structure and exceeded the target to remove 4,000 foreign national prisoners in 2007.

## Issues with the current legislation:

251. We have noted the complexity of current bail procedures. There is at present a separation of procedures and language for deportation and removal in the way the law deals with enforcing departure from the UK. Given both the gradual building up of provisions in different pieces of legislation, and the organisational changes now underway, there is a need to ensure that powers of arrest, entry, search and seizure are coherent and consistent. They will be reviewed and strengthened wherever necessary.

## 7.6 ENFORCEMENT AND COMPLIANCE

### Context

249. Our priority is to take enforcement action against the people who cause the most harm as part of a wider cross-Government strategy that will expand our work in enforcing immigration law, and encourage and ensure compliance with it. In order to do so, we are working to widen the gap between the experience of legal and illegal migrants – making it easier for legal migrants to come to this country and make a positive contribution, whilst making it much harder for those people who are here illegally

**We propose the law should provide that:**

- There should be a single power combining the currently separate methods of enforcing departure - removal and deportation.
- There will be a power to expel from the UK those who
  - require permission and do not have it
  - have overstayed or otherwise breached conditions attached to their permission
  - obtained permission by deception
  - are liable to automatic expulsion following a conviction
  - whose presence is otherwise not conducive to the public good
- We want to explore the possibility of using the term expulsion from United Kingdom as opposed to separate wording for deportation or removal.
- There should be an automatic bar from return to the UK after expulsion subject to a time period based on the reason for removal and with shorter periods for those who leave voluntarily.
- Electronic monitoring may be used as an alternative to detention and may be a condition of bail.
- We want to review the current bail provisions to consolidate and simplify bail powers, working closely with the Ministry of Justice.

**Key differences from the current legal position:**

- Powers and procedures for deportation and removals are dealt with separately in the immigration legislation. This would be replaced by a single, unified set of powers to enforce departure.
- Timescales would be introduced for barring return to the UK after removal.

**7.7 BIOMETRIC INFORMATION****Context**

252. The use of biometric information to establish and verify the identity of foreign nationals is key to many of the developments now in train to improve the security of our border and prevent abuse once in the UK. Fingerprints are now checked before visas are issued at posts around the world. Last year the Agency achieved 120,000 enrolments on the Iris Recognition Immigration System (IRIS) and IRIS Gates were used at nine major ports. Going forward, the use of biometrics will underpin other changes. In the future, secure, unique IDs will also be required for non-EEA nationals who do not require a visa to enter the UK and do not already have a secure, unique ID recorded by the Agency. This will be supported through other initiatives, including the issue of Biometric Immigration Documents to foreign nationals resident in the UK for more than three months.

**Issues with the current legislation:**

253. Currently there are a range of different powers to collect, store and utilise biometric information which have been introduced in a piecemeal fashion across various pieces of immigration legislation. We are also conscious that there are likely to be further advances in technology allowing for new methods to record different biometric features. We will of course want to be able to use developing technology in order to enhance border security. Further piecemeal changes risk adding to the current complexity. And, notwithstanding the range of current provisions on biometrics, gaps have been identified in our existing powers in this area. We are also conscious that not all of the current powers specifically provide for the Agency to retain and store biometric information once it has been captured. And we need to look at time limits on the storage of information to ensure they are appropriate.

**We propose the law should provide:**

- One comprehensive power to obtain and use biometric information in the situations and from the classes of individual where there is a need to do so.
- This power would allow the Agency to obtain biometrics to verify identity, or if the individual is not already known to us, to establish identity, in potentially every situation in which we come into contact with an individual.
- Gateways to share this information with other bodies for other purposes – and in addition to biometric information we are more generally reviewing the way in which we share data.
- We are also reviewing the time limits for retaining biometric information.

## 7.8 APPEALS

254. We believe that the current appeals system, which provides a one-stop appeal to the Asylum and Immigration Tribunal (AIT) against an immigration decision, with a number of exceptions and limitations, is the right one. We are considering whether there are any points where the law could be simplified or clarified, and there may be some other changes as a result of ongoing policy development, such as the consultation on visitors, but we do not intend a radical overhaul of the structure.

255. However, we are concerned that the current right to apply to the High Court for reconsideration of the decision of the AIT, and the increasing number of judicial reviews in immigration cases, the vast majority of which are refused permission and so do not even reach the threshold of being “arguable”, are putting a heavy burden on the High Court. We are therefore looking at possible ways to reduce that burden and will bring forward specific proposals at a later date.

## 7.9 SUMMARY OF PROPOSALS

256. The proposals for changes to the machinery of immigration law which we have set out have been informed by responses to the earlier consultation and discussions with staff groups and stakeholders. They provide a strong platform for further detailed work, in which more specific proposals for changes to immigration law and processes will be addressed. We believe they will allow us significantly to simplify the legal framework and so support the transformation of the immigration system and clarify the path to citizenship.

## CHAPTER 7: SIMPLIFYING THE SYSTEM AND REFORMING THE LAW

### Consultation Questions

1. a. Overall, are the simplification proposals set out in chapter 7 of the green paper in keeping with the simplification principles outlined in paragraph 220?  
  
b. Are there any simplification proposals that you feel are not in keeping with the simplification principles in paragraph 220?
2. Do you have any further thoughts or comments on the simplification proposals set out?

# CHAPTER 8

## SUMMARY OF PROPOSALS AND RESPONDING TO THE GREEN PAPER

### 257. Summary of proposals

Views of the Public	Our Proposals
<p><b>1. A simpler immigration system</b></p> <p>The immigration system should be a much simpler, more straight-forward set of rules governing immigration, including the way newcomers become citizens, that both migrants and the general public can understand more easily.</p>	<ol style="list-style-type: none"> <li>1. All existing immigration laws will be replaced with a clear, consistent and coherent legal framework for the control of our borders and management of migration. Key provisions will be set out in a single focused piece of primary legislation.</li> <li>2. A new, clearer, journey to citizenship will be created with just three clear categories of persons eligible to become citizens or permanent residents:                             <ol style="list-style-type: none"> <li>i. economic migrants;</li> <li>ii. family members of British citizens or permanent residents and;</li> <li>iii. those who require our protection<sup>30</sup>.</li> </ol> </li> </ol>
<p><b>2. Speaking English</b></p> <p>Migrants should be able to speak the common language. This is crucial if they are to integrate effectively.</p>	<p>Tests have been built into the journey to citizenship to ensure people can speak an appropriate level of English at each stage.</p> <ol style="list-style-type: none"> <li>1. to progress to the probationary citizenship stage migrants must demonstrate English language ability either by completing an ESOL course or by taking the Life in the UK test, which is aimed at ESOL entry level 3.</li> <li>2. Through the points based system we will expect the vast majority of workers to speak English.</li> </ol>

30. Those granted Refugee Status or Humanitarian Protection in the UK

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### 3. Economic Contribution

Migrants must 'pay their way' in order to qualify to be a citizen/permanent resident.

Those coming to the UK as economic migrants must demonstrate over a period of time their economic contribution to the UK and/or that they have sufficient funds to support themselves.

1. Economic migrants must demonstrate that they have contributed to the economy during their 5 year temporary residence period, and for a minimum of a further 1 year - after which they become eligible to apply for British citizenship - or a minimum of 3 years if they wish to become permanent residents.
2. Family members of British citizens or permanent residents will need to demonstrate that they can support themselves or are supported by their partner during their 2 year temporary residence period and for a minimum of a further 1 year - after which they become eligible to apply for full citizenship - or a minimum of 3 years if they wish to become permanent residents.

Additionally, we are proposing the creation of a fund to manage the transitional impact of migration, which would involve non-EEA migrants entering via the family or economic routes paying an additional financial contribution. This money would then be used to alleviate transitional pressures on public services.

### 4. Obeying the Law

Migrants should have no criminal record and serious consequences should follow for any migrant who breaks the law.

There will be tougher consequences for migrants who commit criminal offences in the UK:

We will deny access to probationary citizenship (and therefore British citizenship and permanent residency too) where an applicant has been to prison.

And we will slow a migrant's progress through the system on where minor offences are committed.

### 5. Put new citizens of probation

Support for the idea of a period of 'provisional' citizenship, during which full citizenship can be denied if people break the rules.

There will be a new stage between temporary residence and citizenship/permanent residency called 'probationary citizenship' during which migrants will demonstrate whether they should progress to citizenship or permanent residence.

To reach this stage migrants will be required to demonstrate English language and knowledge of life in the UK.

They will only qualify to become full citizens/permanent residents if they continue to meet the rules; and will only be able to qualify in the minimum time periods if they undertake civic activities while probationary citizens.

## 6. Active Citizenship

**People should demonstrate their commitment to the UK, and further their integration, by engaging with their local community.**

People seeking British citizenship will be able to qualify more quickly if they demonstrate their commitment to the UK by playing an active part in their community.

We propose that migrants should be able to demonstrate 'active citizenship' through a wide variety of activities, but that all of these activities should have one thing in common: that they benefit the local community.

We will put in place safeguards to ensure that this system can be monitored effectively.

## Responding to the Green Paper

258. The Government welcomes comments on the proposals in this Green Paper.

259. Responses should be made using the consultation response proforma which can be found at:

[www.bia.homeoffice.gov.uk/aboutus/consultations/current/](http://www.bia.homeoffice.gov.uk/aboutus/consultations/current/)

260. Completed consultation proformas should be sent no later than 14th May to the following address.

Electronic:  
ImmigrationReform@homeoffice.gsi.gov.uk

By post:  
Immigration Reform Consultation Responses  
Border and Immigration Agency  
11th Floor  
Apollo House  
36 Wellesley Road  
Croydon CR9 3RR

### Confidentiality and disclaimer

261. The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

262. Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA),

the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

263. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but **we cannot give an assurance that confidentiality can be maintained in all circumstances**. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

264. Please ensure that your response is marked clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

265. The Department will process your personal data in accordance with the DPA and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

266. For further information on the consultation please see Annex C

# ANNEX A

## THE POINTS BASED SYSTEM: GREATER TRANSPARENCY, OBJECTIVITY AND CONSISTENCY

The Points Based System (PBS) is being phased in from 2008 and will enable us to control migration to the UK more effectively, tackle abuse and attract the most talented workers into the UK economy.

The PBS is focused on bringing in migrants who are highly skilled, or who can do key jobs that cannot be filled from the domestic labour force or from the EU. It consists of 5 tiers to replace the approximately 80 routes to work and study that currently exist:

Tier	Description
1	Highly skilled, e.g. scientists or entrepreneurs
2	Skilled workers with a job offer, e.g. nurses, teachers, engineers
3	Low skilled workers filling specific temporary labour shortages, e.g. construction workers for a particular project. (Tier 3 will not be introduced whilst we retain restrictions on access to the labour market for Bulgarian and Romanians and will only be introduced in the future if conditions demonstrate that it is needed.)
4	Students
5	Youth mobility and temporary workers, e.g. working holiday makers or musicians coming to play a concert

For each Tier, applicants will need sufficient points to gain entry clearance or leave to remain in the UK. Points will be awarded according to objective and transparent criteria. When we set the points pass mark, we will listen to independent advice – the Migration Advisory Committee on the needs of the economy; and the Migration Impacts Forum on the potential impact on public services and local communities.

Sponsorship is instrumental to the PBS<sup>31</sup>. Through the use of sponsors we will reduce the possibilities for abuse of the system by sharing responsibility with those benefiting from migration, and maximise the benefits of migration by making it easier for good sponsors to bring in migrants.

The PBS will allow the rules to be applied in a more consistent and demonstrably fair fashion. We believe that under the new system everyone will be better able to understand who we are allowing into the UK and why, and have confidence that the system is not being abused.

### PBS timetable

The PBS is being rolled out in 2008/9:

Tier	Launch date
1	Commences 29 February 2008
2	third quarter 2008
5	third quarter 2008
4	beginning of 2009

31. For PBS Tier 5: Youth Mobility the government will take the role of sponsor.

**DETAILS OF TIER 1 AND TIER 2**

**Tier 1: Highly skilled individuals to contribute to growth and productivity.**

Tier 1 is about boosting the UK’s economy by attracting and retaining the “brightest and best” as workers or businesspeople. We are, consequently, setting the requirements for both entry to and staying on in the UK at levels commensurate with that aim. In return, we will, not require Tier 1 applicants to have sponsors, unlike in other PBS Tiers.

There will be four Tier 1 categories:

<b>General</b>	For migrants who wish to find highly skilled employment in the UK.
<b>Entrepreneurs</b>	For those investing in the UK by setting up or taking over, and being actively involved in the running of, a business.
<b>Investors</b>	For high net worth individuals making a substantial financial investment in the UK.
<b>Post-Study</b>	This category aims to retain the most able international graduates who have studied in the UK and to boost the UK’s attractiveness as a destination for international students.

Applicants will need to meet a set of points-based requirements to gain entry to the UK, or to extend their stay in a Tier 1 category. The requirements will differ in their details from category to category but will cover Primary Attributes (age, previous earnings and qualifications), English Language at Council of Europe Level C1, and Maintenance (availability of funds for migrants to support themselves and their families).

**Tier 2: Skilled workers with a job offer to fill gaps in UK labour force.**

Tier 2 general introduces some basic requirements. These include a certificate of Sponsorship, which essentially is an assurance from the employer that the migrant is sufficiently qualified, will be paid the appropriate salary and the job is at or above NVQ level 3. We will expect the vast majority of workers to speak English.

In Tier 2 the job must pass the Resident Labour Market Test (RLMT) unless either: the job is in a shortage occupation (these will be recommended by the Migration Advisory Committee (MAC) and others bits of Tier 2); or salary is above £40,000 threshold.

The RLMT is a measure to protect the domestic labour market. Jobs will need to be advertised for at least two weeks – there will be sector-based lists of suitable advertising media. A migrant can be brought in if no suitable worker from EEA. The will also include “going rate” salary check to ensure there is no undercutting.

There are also three subcategories in Tier 2:

- Intra Company Transfers
- Sportspeople (Elite players and coaches)
- Ministers of Religion

We are going to issue Statements of Intent in March 2008, prior to the launch of Tier 2. This will allow people who may be affected by the changes to have time to prepare and raise any major issues of principle/ practicality.

**MIGRATION ADVISORY COMMITTEE (MAC)**

The Migration Advisory Committee (MAC) is a non-statutory, non-time limited Non-Departmental Public Body. MAC membership will be announced shortly and the MAC will be fully operational by April 2008. The MAC Chair has been appointed: David Metcalf, Professor of Industrial Relations at the London School of Economics (LSE). The MAC will provide independent and evidence-based advice to Government on specific sectors and occupations in the labour market where shortages exist which can sensibly be filled by migration. The MAC will meet quarterly and more frequently if required.

## ANNEX B

# ESOL LANGUAGE LEVELS AND HOW THEY RELATE TO THE COMMON EUROPEAN FRAMEWORK OF REFERENCE (CEFR)

Tier	ESOL	CEFR	What does it mean?
Proficient User	Level 3	C2	<ul style="list-style-type: none"> <li>• Can understand with ease virtually everything heard or read.</li> <li>• Can summarise information from different spoken and written sources, reconstructing arguments and accounts in a coherent presentation.</li> <li>• Can express him/herself spontaneously, very fluently and precisely, differentiating finer shades of meaning even in more complex situations.</li> </ul>
	Level 2	C1	<ul style="list-style-type: none"> <li>• Can understand a wide range of demanding, longer texts, and recognise implicit meaning.</li> <li>• Can express him/herself fluently and spontaneously without much obvious searching for expressions.</li> <li>• Can use language flexibly and effectively for social, academic and professional purposes.</li> <li>• Can produce clear, well-structured, detailed text on complex subjects, showing controlled use of organisational patterns, connectors and cohesive devices.</li> </ul>
Independent User	Level 1	B2	<ul style="list-style-type: none"> <li>• Can understand the main ideas of complex text on both concrete and abstract topics, including technical discussions in his/her field of specialisation.</li> <li>• Can interact with a degree of fluency and spontaneity that makes regular interaction with native speakers quite possible without strain for either party.</li> <li>• Can produce clear, detailed text on a wide range of subjects and explain a viewpoint on a topical issue giving the advantages and disadvantages of various options.</li> </ul>
	Entry level 3	B1	<ul style="list-style-type: none"> <li>• Can understand the main points of clear standard input on familiar matters regularly encountered in work, school, leisure, etc.</li> <li>• Can deal with most situations likely to arise whilst travelling in an area where the language is spoken.</li> <li>• Can produce simple connected text on topics which are familiar or of personal interest.</li> <li>• Can describe experiences and events, dreams, hopes &amp; ambitions and briefly give reasons and explanations for opinions and plans.</li> </ul>
Basic User	Entry level 2	A2	<ul style="list-style-type: none"> <li>• Can understand sentences and frequently used expressions related to areas of most immediate relevance (e.g. very basic personal and family information, shopping, local geography, employment).</li> <li>• Can communicate in simple and routine tasks requiring a simple and direct exchange of information on familiar and routine matters.</li> <li>• Can describe in simple terms aspects of his/her background, immediate environment and matters in areas of immediate need.</li> </ul>
	Entry level 1	A1	<ul style="list-style-type: none"> <li>• Can understand and use familiar everyday expressions and very basic phrases aimed at the satisfaction of needs of a concrete type.</li> <li>• Can introduce him/herself and others and can ask and answer questions about personal details such as where he/she lives, people he/she knows and things he/she has.</li> <li>• Can interact in a simple way provided the other person talks slowly and clearly and is prepared to help.</li> </ul>

## ANNEX C

# CONSULTATION ON IMPACTS OF GREEN PAPER PROPOSALS

In this Annex we discuss areas where the Green paper proposals may give rise to costs or benefits. We are seeking comments on whether the scope of identified costs and benefits seems broadly correct.

Following this consultation, as part of the policy development process, we shall develop robust, detailed Impact Assessments for each area of activity, measuring the impact on the public, private and third sectors and including an assessment of risk. We shall also address the specific impact tests required by the Impact Assessment process, such as the construction of an Equality Impact Assessment.

We discuss potential direct costs and benefits under six headings relating to distinct aspects of the proposed policy: system architecture and progression; access to benefits and entitlements; active citizenship; criminality; the fund to manage the transitional impact of migration; and simplification.

### ARCHITECTURE AND PROGRESSION

The revised system architecture will clearly demonstrate the different stages of the journey to citizenship and the requirements to qualify at each stage. It will therefore create a more transparent system and make it easier for both migrants and BIA caseworkers to understand the criteria and requirements. This will increase the efficiency of the process and reduce waste caused by inconsistency in decision-making.

At the same time we expect the creation of a new architecture will involve some costs to government as the guidance is altered and case-workers are trained in the workings of the new system.

### ACCESS TO BENEFITS AND ENTITLEMENTS

In line with the revised architecture access to some benefits will be delayed for periods of between one and five years. In addition, there is likely to be improved public understanding of the overall rights and obligations arising from the earned citizenship proposals.

Government and its agencies will face some adjustment costs. These costs include the costs of amending legislation, regulations, rules and guidance, training staff, and amending IT systems. We have

already engaged with bodies who may be affected and will work with them in identifying the cost implications they face.

Further and higher educational institutions and local authorities may also incur training costs for their staff in familiarising themselves with the new arrangements.

### ACTIVE CITIZENSHIP

We expect benefits to arise from an increase in “active citizenship” activities by probationary migrants such as volunteering. A national survey of volunteering and charitable giving undertaken by the Cabinet office in 2006/7 estimated the economic value of formal volunteering to be around £40 billion. We anticipate that the new arrangements will increase this value by increasing the amount of formal volunteering undertaken and charitable donations.

In addition, volunteering can enhance employability through the development of skills related to communication, line management, teamwork and the use of initiative. A survey by the national volunteering charity, TimeBank, of 200 of the UK’s leading businesses found that many employers express a preference for candidates with volunteering experience.

To the extent that volunteering activity increases social interaction, or that temporary migrants improve English language skills, Active Citizenship policy may raise social cohesion. A MORI “What Works” study found civic participation is a key way of building integration and cohesion, ensuring people feel they have a stake in the community, facilitating mixing and engendering a common sense of purpose.

An important part of any Impact Assessment of the Active Citizenship policy will be an understanding of the costs migrants, businesses, voluntary sectors and government may face in providing additional such activities.

For example, it will be important to understand whether the time migrants commit to volunteering tends to reduce, or not, the amount of time they expend at work. In addition there may be some administrative costs associated with verifying the voluntary activities undertaken by migrants, although we advocate a “light-touch” approach.

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## **CRIMINALITY**

By slowing down their progress towards temporary or permanent citizenship, or refusing their right to become temporary or permanent citizens outright, the Government will be both seeking to deter migrants from committing crime by sending a clear signal that such activities carry significant penalties, and seeking to reduce the impact of repeat offending on others. The deterrence effect will lead to reduced costs to communities and criminal justice agencies.

At the same time the government may incur necessary additional costs associated with administration, removal costs and appeal as a result of managing migrants whose journeys through the citizenship pathway are stopped or slowed down.

Migrants themselves may face additional costs if, as a result of being sentenced for a criminal activity, they are required to resubmit applications, and may face additional legal representative costs if cases require specific legal input.

## **A FUND TO MANAGE THE TRANSITIONAL IMPACT OF MIGRATION**

The key benefit of the fund lies in the ability to distribute resources quickly in response to transitional, short-term pressures on service provision as a result of migration. This will help to alleviate the impact on public services which arises from unexpected migration in local areas, allowing that service provision to provide a response in areas of greatest need.

The Fund will also support wider Government work on community cohesion in the same way - through the provision of additional resources to respond to rapid change at the local level. The policy ensures migrants contribute directly to the need to manage that change.

The costs of the Fund will fall primarily on migrants entering the UK and seeking to remain on economic and family routes. The UK economy may face costs of lost output if any productive migrants are deterred from coming to the UK as a result.

There may also be a small administration cost to the Government as the fee changes are implemented and

an allocation mechanism is worked up. It is likely, however, that setting up the Fund in the proposed manner will require only limited changes to existing administrative structures.

## **SIMPLIFICATION**

Border Agency staff may potentially benefit from fewer speculative and unfounded applications, quicker decision-making processes and fewer appeals as a result of the simpler legal framework that will govern the immigration process. In addition, there may be an administrative saving in the future as the process of legislative amendment becomes less frequent.

Businesses, migrants, legal representatives, the third sector and other BIA stakeholders may potentially realise benefits from dealing with simpler legal guidance and migration laws, suffering fewer refused applications, fighting fewer appeals and having less need to rely on specialist advice.

There may also be increased public confidence in the immigration system with greater transparency arising from a clearer set of rules and less use of discretion.

Simplifying the law may cause costs to Government of modifying systems, retraining staff to apply new framework, and staffing a project team, all of which will be addressed in a wider framework of business change.

There may also be costs to businesses, migrants, legal representatives and the third sector of understanding the new legislation and guidance and changing their working methods to accommodate it.

## ANNEX D

# CONSULTATION CRITERIA

This Green Paper is being conducted in line with the Government's Code of Practice on Consultation<sup>32</sup>.

The six consultation criteria are:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your department's effectiveness at consultation, including the use of a designated consultation co-ordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

### Contact for comments or complaints

If you have any comments or complaints specifically about the Green Paper consultation **process** only, you should email or write to the Home Office consultation co-ordinator:

[nigel.lawrence@homeoffice.gsi.gov.uk](mailto:nigel.lawrence@homeoffice.gsi.gov.uk)

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Performance and Delivery Unit  
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32. See <http://bre.berr.gov.uk/regulation/consultation/code/index.asp>







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