

Earned settlement

Response from Together (Scottish Alliance for Children's Rights)

About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 600 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs and interested professionals. The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations. Views expressed separately should also be taken into account.

Introduction

Together (Scottish Alliance for Children's Rights) welcomes the opportunity to comment on proposed changes to Indefinite Leave to Remain (ILR).

Our response draws upon the UN Convention on the Rights of the Child (UNCRC), alongside guidance from the UN Committee in the form of General Comments, and recent Concluding Observations made in 2023. The response also draws upon evidence from children, young people and their families.

Our response is clear that numerous aspects of the proposals are incompatible with children's human rights. The proposals undermine children's right to development, to family life, equality and non-discrimination, best interests, access to services, and to build plans for their future. The proposals mean that children will spend their entire childhood in immigration precarity for reasons completely outside either their or their family's control. They will grow up without permanent status, with ongoing fear and uncertainty, punished for poverty and vulnerability, and face barriers to education, health, wellbeing and sense of belonging. We are also concerned by the extremely tight turnaround between this consultation and the proposed entry into force of these changes, raising concerns about proper scrutiny and the extent to which feedback will be taken into account.

We have answered those questions most relevant to our expertise, and insofar as our capacity has allowed. However, we encourage the Home Office to have regard to submissions from our member organisations on remaining questions.

We call on the UK Government to halt the current proposals and ensure any future proposals are subject to a thorough Child Rights Impact Assessment to ensure compatibility with children's rights.

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Question 1: Overall, how clear do you find the proposed changes to the settlement framework?

Somewhat unclear.

Question 2: [If unclear] Which aspects of the proposed changes to settlement are not clear?

The following proposals are not clear:

- The concept of earned settlement
- The overall purpose
- Which groups may be eligible for exemptions from the 10-year qualifying period
- How reductions to the qualifying period will be applied
- How extensions to the qualifying period will be applied
- How the proposed changes will apply to dependants and children
- Other (please specify)

The proposals do not make clear how children's rights have been identified, assessed or taken into account, despite the significant and foreseeable impact they are likely to have on children and families. This is a serious concern.

Article 22 UNCRC requires States to protect asylum-seeking children, while General Comment 22 (GC22) emphasises that migrant children are in a position of "double vulnerability" and require particular attention and support (paragraph 3). It states that, under the principle of non-discrimination, all children affected by migration must have their rights upheld, irrespective of their age, gender, race, immigration status or other characteristics (paragraph 21).

The UK Government has not explained how these obligations have been considered nor how the cumulative impact on different groups of children has been assessed. It is unclear, for example, how the UK Government has evaluated effects on refugee children, who may be forced to live with immigration insecurity for up to 20 years; on children affected by violence against women and girls; or those born and raised in the UK but who remain ineligible for settlement due to the status of their parents. The resulting instability and precarity is unfair, unnecessarily harsh, and in direct contravention of children's rights.

Question 3: Overall, to what extent do you agree or disagree with the proposed changes to the settlement framework?

Strongly disagree

CHARACTER

Question 1: Do you have any comments on how 'Character' should be considered in relation to settlement? (200 words)

We strongly disagree with the inclusion of 'good character' as a settlement requirement. This requirement is unjust, overly subjective and likely to disproportionately impact those who already face structural disadvantages within society, particularly refugees and trafficking survivors.

We are particularly concerned by the lack of clarity about how this requirement would operate in relation to children. If children's eligibility is dependent on the 'good character' assessment of their parent, this would mean children being penalised for actions over which they have no control. This approach is incompatible with children's rights. Children are independent rights-holders and should not be punished for their parents' status, circumstances or past actions.

INTEGRATION

Question 1: What do you think about a 1-year reduction for applications who can demonstrate advanced English language ability (at C1 standard)?

There should be no reduction for these applicants.

Question 3: Do you have any further comments on how 'Integration' should be considered in relation to settlement? (199/200 words)

From a children's rights perspective, settlement is not something 'earned' through good behaviour or economic contribution. It is the foundation that allows children to integrate, feel safe and develop their sense of identity and belonging. The proposed reforms invert this logic by requiring children and families to demonstrate 'contribution' and 'integration' before they are entitled to stability.

Delaying settlement hinders integration, as the uncertainty and instability will make it difficult for families to plan for the long term. This can particularly affect children who were born and raised in the UK to non-settled parents, who have no clear route to British citizenship but nonetheless may be forced to leave the only home they have ever known.

Moreover, governments have a duty to facilitate the integration of migrant children and their families, as well as unaccompanied migrant children (General Comment 6, paragraphs 89-90). The principle of non-discrimination requires that receiving states take measures to promote the full integration of migrant children (GC22, paragraph 23), including social and educational settings (GC22, paragraph 23 / General Comment 23, paragraphs 62-63). To include increasingly onerous integration requirements, especially in a climate hostile to such, as part of settlement is incompatible with international guidance.

CONTRIBUTION

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

Those on maternity leave or long-term illness/disability.

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

Strongly disagree.

Question 8: To what extent do you agree or disagree that once someone has been granted settlement in the UK they should be eligible to claim public funds (e.g. benefits and housing assistance)?

Strongly agree.

Question 9: To what extent do you agree or disagree that giving back to the local community (e.g. by volunteering) should be considered as a contribution that can reduce the length of time required to qualify for settlement?

Strongly disagree.

Question 10: [If organisation] Does your organisation currently accept or manage volunteers?

Yes.

Question 11: [If organisation with volunteers] How easy or difficult do you think it would be for applicants to provide evidence of giving back to the community?

Somewhat difficult.

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

We have already received concerns from families who may not be 'high earners', but contribute significantly to their communities in other ways, such as sporting and academic achievements. This highlights the limitations of the government's overly-narrow understanding of 'contribution' to British society.

Moreover, penalising individuals for accessing benefits they were eligible for at the time of claiming is unacceptable. Not only does this fundamentally undermine legal certainty and foreseeability, it also contravenes international guidance; GC22 requires states to ensure that migrant children and families can access services "in an equal manner with nationals" (paragraph 22).

Adding up to 10 extra years to settlement eligibility where families have claimed benefits, even where necessary to prevent homelessness or destitution, expands the harmful effects of the No Recourse to Public Funds regime and deters families from seeking help, even when children's basic needs are at risk.

Although benefits are usually claimed by adults, the consequences are felt by children. Single parents and carers may otherwise be unable to provide for their child and ensure their survival, health, and wellbeing. Penalising lawful access to benefits therefore risks breaching UNCRC Article 3 (best interests of the child), Article 6 (right to life), and Article 24 (right to health).

RESIDENCE

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

No penalty for any group.

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

The proposals fail to account for the reality that there is no safe and legal route for refugees to enter the UK. Without an "asylum visa," people fleeing persecution must enter irregularly or temporarily, and under the proposed residence rules, this automatically penalises them by extending the period required for settlement. This means that all refugees, by definition - even those lawfully recognised and complying with requirements after arrival - face unnecessary insecurity and delay through no fault of their own.

ELIGIBILITY AND EQUALITIES

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

Applicants on humanitarian visa routes (e.g. Syrian, Afghan): Reduction

Question 3: To what extent do you agree or disagree that there should not be transitional arrangements for those already on a pathway to settlement? Transitional arrangements refer to temporary measures which are designed to ease the impact of the new rules for those already in the UK and on an existing pathway to settlement.

Strongly disagree.

Question 4: Do you think the following vulnerable groups (victims of domestic abuse/violence, bereaved partners, CYP who grew up in UK w/o immigration status, adults w/ long term care needs) should retain their current arrangements and be exempt from the proposed settlement changes?

Yes.

Question 5: Are there any other vulnerable groups that you think should be considered as part of this consultation? (200 words)

While Together strongly opposes the proposed settlement changes overall, the rights of certain children and adults would be disproportionately at risk. These include refugee and stateless children; unaccompanied migrant children; disabled children; victims of violence; children of trafficking, survivors; children in low-income or single-parent households; children of parents already on existing routes to settlement; and children of parents in lower-paid but essential work. These children are more likely to fall into penalty categories – not because of any wrongdoing but through their circumstances and the fact that their rights are already more at

risk. This raises serious concerns around equality, non-discrimination and the protection of wider UNCRC rights.

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

Strongly disagree.

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

Strongly disagree.

Question 12: Do you have any further comments on how specific groups should be considered in relation to settlement? We particularly welcome views on how the proposed changes could affect children in the UK. (200 words)

In line with the UK Government's duties under the UNCRC and the Committee's guidance in GC22, the UK Government should conduct a thorough child rights impact assessment (CRIA) to determine the implications of these proposals and inform any decisions (paragraph 31). In compliance with the Article 12 right to be heard, UK Government should facilitate opportunities for children to express their opinions on the proposals throughout the process, and give these views due weight (GC22, paragraphs 35, 39). It should also consult disaggregated qualitative and quantitative data to ensure a comprehensive view of the effects of its policies, paying particular attention to children whose rights are most at risk. These groups include, but are not limited to, children of minority ethnic backgrounds and victims of trafficking and exploitation.

More generally, children and young people who go through the immigration system separately from their parents will likely face increased disadvantage in their daily lives. For example, they may be barred from accessing basic services, such as healthcare, housing, and education, therefore giving rise to a breach of their Articles 24, 27 and 28 rights to health, an adequate standard of living, and education, respectively. This, in turn, compromises their Article 6 right to life, survival and development.

IMPACT ON ORGANISATIONS

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

We are concerned that the proposals' emphasis on volunteering as a route to reduce settlement periods could have significant negative impacts on both volunteers and organisations like ourselves. Volunteering should be genuinely voluntary, but the proposals risk creating a situation where people feel compelled to provide unpaid labour to help secure their immigration status. This is particularly problematic where individuals may be on low incomes, and not able to afford the time to volunteer alongside work or caring responsibilities.

The proposals also push individuals towards potential exploitation. Unscrupulous organisations or individuals could require individuals to work without pay under the promise of faster settlement, potentially exposing them to unsafe or abusive conditions.

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