



information sheet

Path to Citizenship

18th March 2008

In February 2008, the Government published *The Path to Citizenship: next steps in reforming the immigration system*. The paper sets out proposals for making changes to how those who migrate to the UK may become British citizens and for changing ('simplifying') immigration law more generally. It is available at:

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/pathtocitizenship/>

This information sheet provides details of the proposals relating to British citizenship.

Current ways in which migrants may become British citizens

At present, immigrants can usually apply to become a British citizen if they have been settled (i.e. have indefinite leave to remain) in the UK for at least one year and have lived in the UK for at least five years (three years in the case of spouses and civil partners of British citizens). Not all immigrants can apply for settlement or citizenship. For those that can, the current process means they pass through set stages:

- firstly, having some temporary status (limited leave under a particular category, e.g. highly skilled migrant, refugee, spouse)
- secondly, having settled status (indefinite leave to remain)
- thirdly, having British citizenship

This process for becoming a British citizen is called naturalisation. There are a number of requirements that must be met, including that the applicant must:

- be of good character (a criminal record may mean an application is refused)
- have sufficient knowledge of the English language and pass the life in the UK test
- have spent most of the last five years (three years for a spouse or civil partner) in the UK

A significant feature of the current process is it provides stages when a person's continued stay in the UK, and whether they should be able to continue along the route to citizenship, comes up for review. The Border and Immigration Agency (BIA) will review a person's circumstances when he or she applies for settlement (indefinite leave to remain); and again when he or she applies for citizenship. The BIA will already have examined that person's circumstances at least once – at the time he or she originally applied for leave (permission) to enter or remain in the UK.

A further significant feature is that the BIA has the power at various stages to withdraw a person's status if their conduct or a significant change of circumstances justifies this. It is even possible to deprive (withdraw) citizenship after a person has naturalised.

Proposal for probationary citizenship

The Government propose to replace the "having settled status" (indefinite leave to remain) stage with a new stage in the process called "probationary citizenship", which would last for a minimum of one year. The stages that a person would then pass through would be the same as those set out above but with the settled stage replaced by this probationary citizenship stage. A key difference would be that at this second stage in the process the person would only have a temporary (probationary citizenship) rather than permanent (indefinite leave to remain) status.

If this proposal is adopted, an immigrant would be able to apply for probationary citizenship after they had been in the UK with leave to enter or remain for 2 years (family members of British

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citizens/permanent residents) or 5 years (economic migrants or refugees). After a minimum of one year as a probationary citizen, the immigrant would be able to apply for British citizenship.

Settlement would not disappear under the proposals, but it would no longer be a stage on the route to citizenship. It would be an alternative to citizenship, e.g. for those whose country of origin does not permit dual citizenship and who do not wish to give up their original citizenship. It would take longer to become settled than to become a citizen. If an immigrant did not want to become a British citizen, he or she would still need to apply for probationary citizenship as described above. After a minimum of three years as a probationary citizen, the immigrant could apply for permanent residence (i.e. what is now called settlement or indefinite leave to remain).

Proposal for active citizenship

The Government propose that – as is the case now – criminal conduct by an immigrant may slow or stop that person becoming a British citizen. However, the Government also proposes that immigrants should be required to undertake voluntary work in order to become a British citizen after the proposed minimum one year as a probationary citizen. This voluntary work is what the Government refer to as “active citizenship”. Not doing any voluntary work would slow an immigrant becoming a British citizen.

Comments on the proposals for probationary citizenship and active citizenship

Some criticisms of these proposals that may be made, include:

- adding an entirely new status (probationary citizenship) to UK immigration law will make our law more not less complex
- the need for a probationary stage is imaginary, since there already exist several stages on the route to citizenship at which a person’s status and background is reviewed
- the imposition of a requirement to volunteer (active citizenship) would be a contradiction (something that is required is not voluntary); and open up new possibilities for exploitation of immigrants
- underlying the new and complex proposals is simply a proposal to extend the length of time before which many immigrants, whose long-term future is in the UK, can properly settle and integrate
- the proposal to greatly extend the length of time before which an immigrant can obtain permanent residence (now called settlement, indefinite leave to remain) particularly discriminates against immigrants whose original national authorities do not allow their citizens to hold dual nationality
- in general, the proposals would mean those immigrants, who already face marginalisation, will be likely to meet increased hurdles to their integration

The Lord Goldsmith QC review

In October 2007, Lord Goldsmith QC launched his review into citizenship. In March 2008, he published a report with recommendations, including that the Government should reconsider allowing asylum-seekers the right to work. Lord Goldsmith’s report is available at:

<http://www.justice.gov.uk/reviews/citizenship.htm>

ILPA made a response to the Government’s initial simplification consultation (in August 2007); and provided a submission to Lord Goldsmith for his review (in December 2007). These are available in the “Submissions” section on the ILPA website at www.ilpa.org.uk

Consultation and Simplification

These proposals are part of the Government’s simplification project, by which they have said they will simplify the UK’s immigration and nationality laws. The Path to Citizenship paper also contains some proposals for simplifying immigration law. For more information about the simplification project, see the “Simplification Project 2” information sheet.