After the Lords Report: A Transitional Options Matrix for Existing Skilled Workers under Earned Settlement

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1. In the final week of June, the settlement debate changed shape. The House of Lords Justice and Home Affairs Committee concluded its inquiry into settlement, citizenship and integration with a warning that applying longer qualifying periods to people already in the United Kingdom would be "manifestly unfair" and may be unlawful. [1, para 129] Within days, the Government was reported to be openly divided on the same point: the Prime Minister declined the Home Secretary's request to remove the immigration minister after he argued publicly that care workers who had played by the rules should not be made to wait longer for settlement. [2]

2. The reported proposals explain why the debate has intensified. The standard route would move from five years to ten; Health and Care visa holders and migrants who have worked in an occupation below RQF level 6 would face fifteen; those who relied on benefits for more than twelve months, twenty. [2][4] The live question is therefore no longer *whether* existing Skilled Workers require transitional protection — the Lords Committee has concluded that applying longer qualifying periods to people already in the UK would be "manifestly unfair" and may be unlawful; the Commons Home Affairs Committee had already recommended transitional arrangements [1, para 131][3] — but *what form* that protection should take. Yet much public discussion still runs on a binary: preserve the five-year route unchanged, or apply the new framework to everyone who has not yet obtained Indefinite Leave to Remain. Neither pole maps the design space between them.

3. The precise question is the one this article addresses: **how should reform apply to people who have already entered, worked, renewed, paid visa fees and the Immigration Health Surcharge, sponsored dependants, and organised employment, housing and family life around a published five-year framework?** CP1448 itself records that framework as one currently leading to settlement after five years. [4]

A. The premises are established — and documentary

4. The analytical premises no longer need arguing from first principles. The concepts that structure what follows — transitional fairness, legal certainty, reliance interests, and the completion horizon, under which reliance strengthens as completion nears — were developed in the Skilled Worker Justice Alliance's written evidence to the Lords inquiry, published by the Committee as SCI0610, and are now reflected in the conclusions of both committees. [5]

5. Nor is the five-year representation an abstraction. As SWJA's legislative scrutiny memorandum records, the evidence base is route-specific rather than general: Appendix Skilled Worker, the ILR guidance, the continuous residence guidance and the preserved GOV.UK eligibility output — independently archived in November 2025, still stating "Can settle: Yes – after 5 years" — together evidence "a communicated five-year completion horizon". [6] The representation on which workers relied is documentary, official and time-stamped.

6. Equally settled is that the route is already contribution-gated. Entry requires an eligible occupation, a licensed sponsor and a salary threshold. [7] Years completed under those conditions exhibit the very features — work, tax, compliance, integration — that the new system says it will reward; and the Commons Committee has warned that RQF-based distinctions may not track actual economic contribution. [3] Treating completed years as ordinary temporary residence does not raise standards prospectively; it retrospectively devalues work the system had accepted as sufficient.

B. SWJA's position, precisely stated

7. Before turning to the matrix, the baseline should be recorded precisely, because a comparative framework of this kind is easily misread as a menu of concessions. SWJA's Framework Note 01 identifies, as a minimum measure, maintaining the existing five-year settlement pathway for individuals assigned a Certificate of Sponsorship before 11 April 2024 who remain continuously compliant, with revised rules applying prospectively — a "minimum level of alignment" capable of preserving the framework's structural integrity, and one that expressly does not preclude broader transitional arrangements. [8] The date is not chosen arbitrarily: 11 April 2024 is the point from which materially higher entry requirements applied to new entrants, while those already sponsored kept transitional provisions running to 4 April 2030 — cohort differentiation, and a completion horizon, already embedded in the rules. [8]

8. The matrix that follows is therefore not a negotiating ladder descending from that position, and nothing in it should be read as retreat. It is an analytical device directed at the Government's burden of reasoning. If mechanisms narrower than the minimum saving provision exist — and they do — then a Government that rejects the minimum must also work through each of them, publicly, before resorting to blanket retrospective restructuring. The breadth of the design space strengthens, rather than weakens, the case for the least intrusive solution.

C. The Transitional Options Matrix

9. Each option is assessed against three considerations: what is the mechanism; why is it less intrusive than blanket retrospective extension; and, if rejected, what should the Government justify? The matrix is a map of the burden of reasoning, not a list of offers.

Transitional option	Mechanism	If rejected, Government should justify
Full saving provision (grandfathering)	Existing workers complete settlement under the five-year route in force at entry or renewal; SWJA's stated minimum anchors this to CoS assignment before 11 April 2024 with continuous compliance	Why full retrospective application is necessary despite accrued reliance
Cut-off date	New rules apply only after a defined date (White Paper, CP1448, Statement of Changes, commencement, CoS assignment, grant or renewal)	Why those who acted before any notice should bear new burdens
Stage-based protection	Protects those close to ILR, already renewed, or heavily committed through fees and dependants	Why near-completion cases should be treated as future entrants
Capped extension	Limits any additional delay for existing cohorts, e.g. to 12–24 months	Why an uncapped move from five years to ten, fifteen or twenty is proportionate
Transitional credits	Counts time completed under the existing route fully or favourably in any new calculation	Why past compliance should be discounted as ordinary temporary residence
Protected transitional status	Stable interim status after year five, without immediate ILR	Why prolonged sponsor-dependent conditionality is required
Fiscal ring-fencing	Separates public-funds controls from settlement timing — the separation the Lords Committee recommends exploring	Why immigration insecurity is a necessary welfare instrument
Dependant and child safeguards	Prevents split settlement, ageing-out and child-specific disruption	Why children should bear the risk of adult policy reform
Fee and IHS mitigation	Waives or caps costs caused solely by forced extension	Why households should pay repeatedly for state-created delay
Targeted cohort approach	Applies stricter rules only to defined risk cohorts or routes	Why compliant care workers and low-risk, long-resident cohorts are swept into the same restructuring

D. Notice-based protection: saving provisions and cut-off dates

10. The strongest protection is the full saving provision — and it is administrable. Anchoring it to CoS assignment before 11 April 2024, with continuous compliance, uses a differentiation the rules already operate, avoids inventing new machinery, and gives caseworkers a bright line. [8] If the Government objects that grandfathering blunts the reform's effect on projected settlement volumes, that response engages the policy's aim; it does not answer the fairness of the means.

11. Short of full saving, a cut-off date preserves the principle of notice. Candidates include the White Paper, the publication of CP1448, the laying of a Statement of Changes, commencement, CoS assignment, first grant or renewal. Rejecting every available cut-off requires the Government to explain why people who acted before any notice existed should bear the new burdens.

E. Graduated models: stage, cap and credit

12. Stage-based protection grades by progression: three qualifying years completed, a first renewal effected, a second permission period entered, ILR within twenty-four months, dependants sponsored, second-round fees paid. The nearer completion, the stronger the reliance and the weaker the case for a materially longer pathway. This freezes nothing; it merely declines to treat a near-complete case as a future entrant.

13. A capped extension confines any additional period — twelve or twenty-four months, say, tapering with years already served — and avoids the cliff edge now reported: five years becoming ten, fifteen or twenty. [2] Rejecting a cap requires the Government to explain why an uncapped extension is proportionate for people already substantially through the route.

14. Transitional credits follow from CP1448's own architecture. If the qualifying period is adjustable upwards or downwards for contribution, residence and compliance [4], years already served under sponsorship, salary and compliance conditions cannot rationally count for nothing. Without credit, the message is that contribution counted while the labour was needed and stopped counting as settlement approached.

F. Structural and targeted measures

15. Protected transitional status. The EU Settlement Scheme cannot be transplanted — it rests on the Withdrawal Agreement, and CP1448 places it out of scope [4] — but it demonstrates institutional capability: the system has operated a stable interim status preserving work, healthcare, education and residence. [9] A comparable structure after year five would reduce sponsor dependency, repeated fees and job-loss risk without granting immediate ILR.

16. Fiscal ring-fencing. CP1448 itself consults on attaching a no-recourse-to-public-funds condition to settlement. [4] The Lords Committee has now recommended that the Government instead explore precisely this separation: retaining the five-year baseline for ILR while holders remain subject to the no-recourse condition until ten years' residence and/or citizenship. [1, para 113] Whatever view one takes of that particular design, its presence as a committee recommendation demonstrates that public-funds control is institutionally separable from settlement timing — and once separated, delaying settlement ceases to be self-evidently necessary for fiscal control.

17. Dependants and children. A changed timeline for the principal applicant can split family progression, strand children approaching eighteen and prolong childhood insecurity — consequences CP1448 anticipates and the Commons Committee said require clear mitigations. [3][4] Safeguards could include dependants following the principal under prior rules, protection for children who arrived as minors or were born here, and settlement with whichever parent qualifies first.

18. Fees and the IHS. MRU and SWJA's Evidence Note 03 documents the path-dependent costs already sunk into the route and the further visa, IHS and dependant costs a forced extension would trigger. [10] Where the delay is the state's creation, mitigation — waived or capped extension fees and IHS, no reset of the qualifying clock on a sponsor change — stops the cost of reform being levied on households that budgeted for five years.

19. Targeting. The Government's stated concern is specific: settlement volumes traced to 2022–24 inflows and particular routes. [4] Even within Government, the immigration minister's reported view was that compliant care workers should not wait longer. [2] A specific concern invites a specific instrument. If the problem lies in identified cohorts, sweeping the high-paid, the long-resident and the near-complete into the same restructuring requires separate justification.

G. The public-law overlay

20. The matrix also maps legal risk. R (Ooi) v Secretary of State for the Home Department [2007] EWHC 3221 (Admin) preserves policy flexibility before a settlement right has crystallised; R (HSMP Forum Ltd) v Secretary of State for the Home Department [2008] EWHC 664 (Admin) marks the boundary where official route-specific representation, structured progression, long-term reliance and inadequate transition coincide. [6] The Lords Committee's report records the same line being drawn: it restates the constitutional principle that law should be prospective, and notes SWJA's evidence that HSMP Forum illustrates the public-law sensitivity of altering settlement consequences for an already-admitted cohort. [1, paras 126–127] To be clear about what is not argued: no accrued right to ILR is asserted before an application is made and granted — SWJA's memorandum expressly disclaims that reading of Ooi. The narrower, administrative-law point is that where the state's own materials communicated a five-year horizon, the adequacy of transition becomes central to any assessment of the change's lawfulness.

21. The memorandum adds that administrative operability is part of legality: protected cohort, cut-off date, dependants, sponsor change, redundancy, illness and parental leave must all be capable of consistent caseworking. [6] Reporting as early as February that retrospective change was already being framed for legal challenge points the same way. [11] Each row of the matrix is, in that light, a proportionality answer available to the Government before litigation supplies one.

H. Conclusion: ten questions for the Government response

22. The Lords Committee has recorded that the Government failed to provide an impact assessment for its proposals [1, para 91], and expects a response within the customary two months; the response to the Commons Committee's March report remains outstanding. [3] When the Government's evidential documents do arrive, they should be tested against this matrix. The Government should therefore explain: why reform cannot operate prospectively; why no cut-off date is workable; why near-completion cases go unprotected; why any extension cannot be capped; why completed years attract no credit; why no protected interim status is available; why fiscal concerns cannot be met by fiscal instruments — the Lords' own alternative; why children need no distinct

safeguards; why affected households must fund the delay; and why targeted cohort rules are insufficient.

23. SWJA's position remains as published: at minimum, individuals assigned a Certificate of Sponsorship before 11 April 2024 who have remained continuously compliant should complete settlement under the existing five-year framework, with any revised settlement rules applying prospectively. That is presented not as the ceiling of transitional protection, but as its minimum acceptable floor. The matrix does not dilute or qualify that position. Rather, it demonstrates that multiple, less intrusive transitional mechanisms are available. If the Government nevertheless chooses the most disruptive option, it should explain — openly and systematically — why each less intrusive alternative has been rejected. The burden of providing that justification rests squarely with the Government.

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