



SKILLED WORKER JUSTICE ALLIANCE

Further Supplementary Submission and Consolidated Evidence Bundle (Prepared for the Administrative Record)

Consultation: CP 1448 “Earned Settlement”

Submitted by: Skilled Worker Justice Alliance (SWJA)

Date: 18 February 2026

1. Introduction and procedural background

1.1 The Skilled Worker Justice Alliance (SWJA) is a non-profit, community-based advocacy alliance formed by individuals lawfully present in the United Kingdom under the Skilled Worker route, together with their families and supporters, who are affected by the proposed “Earned Settlement” policy changes. SWJA engages with policy-making through evidence-based and legally grounded representations, with a particular focus on legal certainty, fairness, and the protection of those who have organised their lives in reliance on the existing framework.

1.2 This document constitutes a further supplementary submission. It is intended to place additional relevant material, together with a consolidated and structured evidence bundle, before the Department, and to request that these materials be taken into account and included on the administrative record for the purposes of the Department’s decision-making. By way of background, SWJA has already made formal submissions in response to the CP 1448 “Earned Settlement” consultation. A full response was submitted via the official online consultation platform on 11 February 2026, and a corresponding written version was provided by email on 12 February 2026. As previously indicated, SWJA expressly reserved the right to place further material on the record should additional relevant evidence become available.

1.3 This supplementary submission should be read together with the accompanying Executive Summary and Index to the Evidence Bundle. The full Evidence Bundle is made available via a single secure link and is accessible to the Department and other recipients of this submission. That link provides both (i) an open-access, view-only version for ease of reference and navigation, and (ii) a consolidated and fixed bundle in compressed form. For the avoidance of doubt, the authoritative version for the purposes of this submission and the administrative record is the consolidated and fixed bundle in compressed form, indexed in the accompanying Evidence Index, the contents of which are final as at the date of this submission. The link is as follows:

<https://swjauk-my.sharepoint.com/:f/p/contact/IgAIVfiteY15R7IPySE1vyBSAWBGpzVzitDBRZ67t8EJYUo?e=W3Omz3>

2. Legitimate policy aims and the proper scope of reform

2.1 At the outset, SWJA recognises and respects the Home Office’s lawful authority to amend the Immigration Rules and to set policy in this area. SWJA also recognises that tackling unlawful



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migration, non-compliance within the lawful migration system, and abuse or circumvention of immigration controls are legitimate and necessary objectives of public policy. Those who breach the rules may properly be subject to enforcement action.

2.2 SWJA's concern is not with those objectives as such. Rather, it is with the proposed application of the "Earned Settlement" framework to those who entered the United Kingdom lawfully, have remained compliant with the rules, and have ordered their lives in good faith reliance on the existing legal framework.

2.3 In SWJA's respectful submission, maintaining a clear and principled distinction between unlawful or non-compliant conduct on the one hand, and lawful and compliant reliance on the other, is not merely a matter of sound administration. It is also a matter of basic fairness, legal certainty, and the rule of law. That distinction is central to the proper scope and lawful design of any reform in this area, and underpins the need for robust transitional protection for those who have relied on the existing framework.

3. The legal character of the affected group: a closed or semi-closed cohort on an established route

3.1 It is of central importance to emphasise that the affected population may properly be characterised, in both design and practical operation, as a clearly identifiable closed or semi-closed cohort. Its members have all lawfully entered and remain on a well-trodden and established route to settlement, and have, in a continuous and compliant manner, been accruing residence, status, and legal eligibility towards settlement within that framework.

3.2 In legal terms, this is not a group standing at the "starting line" of a claim to new benefits. Rather, it is a cohort whose status and rights may properly be said to be **accrued and crystallising within an existing statutory and policy framework**. The expectations generated are not abstract or speculative hopes, but matured expectations grounded in long-standing, clear, and repeatedly reaffirmed rules, and therefore constitute reliance interests and legitimate expectations protected by public law.

3.3 The evidence demonstrates long-term reliance, structured life planning, and institutional expectations attached to the existing pathway, including in relation to family life, employment, housing, and integration (see, inter alia, professional and parliamentary materials at [Appendix A1–A4; P1–P4], and employer/sector evidence at [Appendix E1–E4]). This evidential picture is consistent with, and reinforces, the legal characterisation set out above.

3.4 Against that background, even if the relevant reforms are framed as applying to "future applications", insofar as their effect is to materially alter the legal position and settled status of those already on the pathway, the measures would risk operating in law, in substance, as having a retrospective effect. Where such changes place compliant individuals, who have ordered their lives in good faith reliance on the existing framework, in a worse position, they would be liable to



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be characterised as having a retrospective and punitive effect.

3.5 Accordingly, such changes are no longer merely a matter of ordinary policy adjustment. They substantively redefine the rights structure of an existing route and directly engage the core public law principles of legal certainty, legitimate expectation, and the protection of settled legal status. For that reason, any such reform must be subject to particularly anxious scrutiny and, as a matter of principle, must be accompanied by clear, robust, and workable transitional protection (grandfathering). Absent such safeguards, the proposals give rise to serious risks of unlawfulness and irrationality in public law terms. The issue is not whether any individual has a vested right to indefinite leave to remain at this stage. It is whether the State may, without robust transitional protection, materially **rewrite the legal consequences of past lawful conduct and reliance by those already on an established route**, in a way that is in substance retrospective and unfair. Public law protection of legitimate expectation and legal certainty is not confined to cases of formally vested rights, but extends to situations where individuals have ordered their lives in good faith reliance on a stable and repeatedly reaffirmed policy framework.

4. In substance, the proposals are in effect retrospective

4.1 Although the proposals are framed as prospective, their operation would risk being characterised, in substance, as retrospective, because they would alter the legal and practical consequences of decisions already taken, reliance already formed, and pathways already embarked upon. Individuals who entered the system under one settled set of expectations would thereby find the conditions of their route materially altered mid-journey. In substance, and as the evidence demonstrates, this would risk being characterised as having a retrospective and punitive effect, by attaching new and more onerous conditions to an existing, relied-upon route, rather than merely regulating future entrants (see legal and professional analysis at [Appendix A1–A4], and case-law and institutional lessons at [Appendix W1–W9]).

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5. Public law constraints: legal certainty, legitimate expectation, fairness, and rational decision-making

5.1 The principles of legal certainty, legitimate expectation, procedural fairness, and rational decision-making constitute fundamental constraints on the manner in which policy changes of this kind may lawfully be introduced, particularly where such changes affect a closed or semi-closed cohort that has ordered its affairs in long-term reliance on an established legal framework.

5.2 Legal certainty requires that individuals be able to order their lives on the basis of stable, foreseeable, and coherent legal frameworks, especially where the State has itself encouraged reliance on a specific route to settlement. Where reform would operate, in substance, to rewrite the consequences of past lawful conduct and reliance, the absence of clear and robust transitional protection would raise not only questions of fairness but also serious concerns as to the credibility



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and integrity of the legal system as a rules-based framework.

5.3 Legitimate expectation arises where a public authority, through settled practice, consistent representations, and a stable policy architecture, has led individuals reasonably to expect that a particular framework will continue to apply to them, absent compelling, properly justified, and procedurally fair reasons for departure. In such circumstances, public law does not permit policy change to unfairly frustrate long-standing reliance and life planning without adequate justification and safeguards.

5.4 These constraints are reinforced by the requirements of procedural fairness and evidential adequacy. Major policy change must be grounded in robust, transparent, and verifiable evidence, and consultation must be conducted on a basis that is properly informative, framed so as to permit intelligent consideration and response, and candid as to transitional arrangements and impacts, in accordance with the principles articulated in *Moseley* and *Gunning*. Decision-making undertaken amid acknowledged data gaps or evidential insufficiency would raise serious concerns as to lawfulness, not merely as to the weight to be given to competing considerations, but as to whether the minimum public law threshold of informed decision-making has been met at all (see [Appendix P9; P11]).

5.5 Further, the requirement of rationality in public law extends not only to internal coherence of reasoning, but also to the relationship between means and stated objectives. Where authoritative economic and policy analysis indicates a serious risk that the proposed measures may fail to achieve their own stated aims, and may instead give rise to significant net economic loss and systemic harm to workforce stability, this raises a distinct and legally relevant concern as to whether the policy is supported by a rational and adequate evidential foundation (see, inter alia, [Appendix R1–R3; M2–M5; E1–E4]).

5.6 Finally, public law requires decision-makers to take into account the foreseeable systemic and human consequences of structural policy change. The evidence before the Department demonstrates a real risk that the proposals will generate prolonged immigration precarity and a state of “limbo”, with predictable and structurally significant adverse effects on family life, children’s welfare, integration, labour market stability, and the sustainability of key public services (see, inter alia, [Appendix C1–C11; E1–E4; M1–M8]). Such impacts are not marginal or incidental, but flow from the design of the scheme itself, and therefore constitute legally relevant considerations that must be addressed as part of any lawful, rational, and fair decision-making process. In addition, evidence from local and devolved government further demonstrates foreseeable impacts on public service delivery and workforce stability.

5.7 Professional and practitioner bodies have accordingly emphasised the systemic risks of undermining legal certainty and settled expectations in the absence of clear and workable transitional safeguards, including risks to fairness, coherence, and confidence in the legal system as a whole (see [Appendix A1–A4]). Parliamentary and oversight materials further underline that



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these concerns are not abstract or speculative, but arise with particular force where major policy change is pursued amid recognised data gaps and evidential weakness (see [Appendix P9; P11]).

6. Independent professional warning: the Law Society

6.1 The Law Society of England and Wales has issued a formal statement warning that the proposals risk undermining the rule of law and legal certainty, and that proceeding in the absence of robust transitional protections would be inconsistent with fundamental public law principles (see [Appendix A1]).

6.2 This intervention, coming from the professional body representing the legal profession, is of particular significance. It speaks not only to the legality of the proposed approach, but also to its systemic implications for legal certainty, legitimate expectation, and the credibility of the immigration system as a rules-based framework. The Law Society’s analysis strongly supports the proposition that reforms of this nature, affecting accrued and crystallising rights on an established route, would require especially careful justification, evidence, and safeguards.

6.3 In this sense, the Law Society’s warning provides an authoritative professional anchor for the concerns set out above: namely, that absent clear and workable transitional protection, the proposals risk operating in effect retrospectively, and in a manner incompatible with core public law principles.

7. The wider evidential landscape: evidential sufficiency, rationality, and economic impact

7.1 A central requirement of public law is that policy change must be based on an adequate evidential foundation and be the product of rational decision-making. Measures which materially affect settled expectations and long-term reliance must be supported by robust, transparent, and properly tested evidence, including as to costs, benefits, and distributional effects. The difficulty is not merely that reasonable people may disagree about policy. It is that authoritative oversight bodies and independent analysis identify persistent data gaps, inadequate modelling, and the absence of evidence supporting core assumptions, such that there is a serious question as to whether the minimum public law threshold of an adequate evidential foundation is met. This is therefore not a challenge to the merits of policy as such, but to the lawfulness of proceeding in the face of acknowledged evidential deficiencies and unsupported assumptions of fact.

7.2 Independent scrutiny has identified persistent data gaps and a lack of robust impact modelling relevant to the assessment of costs, benefits, and distributional consequences (see [Appendix P9; P11; R1–R3]). In particular, the Joint Human Rights and Administrative Committee has characterised decision-making in this area as occurring “in a fog”, reflecting a serious absence of reliable data and clear evidential foundations ([Appendix P9]). The Public Accounts Committee has likewise repeatedly identified systemic risk, weak governance, and serious data deficiencies in the skilled worker and wider migration system ([Appendix P11]). This evidential weakness



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seriously calls into question whether the proposals meet the standard of rational and informed decision-making required by public law, and raises acute concerns of a failure of proper inquiry in well-established public law terms.

7.3 Employer and sector bodies, including NHS Employers, TheCityUK, techUK and Fragomen, identify material and foreseeable risks to workforce stability, recruitment, retention, and public service delivery arising from increased precarity and prolonged uncertainty (see [Appendix E1–E4]). These are not speculative concerns, but operational risks grounded in the realities of labour markets and workforce planning, and therefore constitute highly relevant considerations which any rational decision-maker must properly take into account.

7.4 Independent economic and policy analysis published by the Financial Times further calls into serious question whether the proposals can achieve their stated objectives, and highlights foreseeable adverse impacts on productivity, family life, and integration outcomes, together with the risk of significant net economic loss (see [Appendix M2–M5]). These concerns are reinforced by independent academic analysis, including by the Migration Observatory, which finds no evidence that prolonging temporary or insecure status increases compliance or economic contribution, and instead identifies adverse effects on integration and long-term planning capacity (see [Appendix R1]). In these circumstances, there is a real risk that the proposals are predicated on unsupported or erroneous assumptions of fact, further undermining their rationality in public law terms.

7.5 This multi-source evidential picture is further reinforced by material from devolved and combined authorities responsible for regional governance and public service delivery. The Greater Manchester Combined Authority has warned that the proposals risk leaving many residents already living and working in the United Kingdom in a prolonged state of immigration “limbo”, and of creating significant injustice and hardship, with foreseeable consequences for integration, community cohesion, and workforce stability. The Scottish Government has likewise emphasised that extending the qualifying period sends the wrong message to those who have made their lives in Scotland and contributed to their communities and economy, and does not reflect Scotland’s demographic and economic needs. These are not expressions of abstract political disagreement, but assessments from public authorities engaged in the practical management of regional labour markets, public services, and social cohesion, and therefore constitute highly relevant evidence as to the foreseeable systemic and human impacts of the proposals (see [Appendix P13–P14]).

7.6 These concerns do not arise in isolation. They form part of a consistent, multi-source evidential picture, reflected across employer evidence, independent research and think tank analysis, civil society and local authority material, parliamentary scrutiny and debate, and sustained media analysis (see, inter alia, [Appendix E1–E4; R1–R3; C1–C11; P1–P14; M1–M8]). Parliamentary material, including Hansard debates, cross-party correspondence, EDMs, APPG reports and select committee evidence, demonstrates sustained and cross-party concern as to



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evidential sufficiency, proportionality, and fairness ([Appendix P1–P14]). Civil society and local authority evidence further highlights foreseeable adverse impacts on children and families, including concerns engaging the UN Convention on the Rights of the Child ([Appendix C1–C11]). In public law terms, the failure to address these matters would be liable to go not simply to the merits of the policy, but to a failure to take into account obviously material considerations.

7.7 In these circumstances, proceeding without addressing these evidential deficiencies and risks would raise serious questions of rationality, failure to take into account relevant considerations, proportionality, and overall lawfulness in public law terms—particularly given the scale of the interests affected and the accrued and crystallising status of those already on the established route. While the weight to be given to particular considerations is a matter for the decision-maker, the failure to take into account matters which are obviously material to the fairness, proportionality, and systemic impact of the proposals would render the decision vulnerable to challenge on grounds of unlawfulness. The convergence of concern across parliamentary oversight, professional bodies, employers, academia, and civil society is not merely political background noise, but constitutes a clear set of legally relevant risk indicators which no reasonable decision-maker could properly ignore.

8. The case-law trajectory: legitimate expectation, procedural fairness, evidential sufficiency, and the limits of formalism

8.1 Over the past two decades, the courts have developed a coherent and increasingly stringent body of public law principles governing the fairness and lawfulness of policy change, particularly where individuals have ordered their lives in reliance on established legal frameworks. An early and central authority is *R v North and East Devon HA, ex p Coughlan* [2001], which confirmed that where a public authority has created a clear and settled framework on which individuals have reasonably relied, the resulting legitimate expectations and reliance interests may not be frustrated without compelling justification and without regard to fairness. That line of authority underscores that public law protection is not confined to formally vested rights, but extends to settled expectations generated by stable and relied-upon policy regimes.

8.2 The courts have also insisted that fairness must be reflected not only in substantive outcomes, but in procedural design and consultation. In *R (Moseley) v Haringey LBC* [2014] UKSC 56, building on the well-known *Gunning* principles, the Supreme Court emphasised that consultation must be fair, properly informed, and conducted on a basis that enables conscientious consideration of the real options and impacts. A consultation process which fails to present the true nature and consequences of proposed changes, or which obscures material risks, is liable to be unlawful for procedural unfairness.

8.3 In parallel, the courts have reinforced the requirement that administrative decisions, particularly in the immigration context, must be taken on the basis of procedural fairness, adequate



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reasons, and a proper evidential foundation. In *Balajigari v SSHD* [2019] EWHC 921 (Admin), the High Court reiterated that immigration decision-making must comply with basic standards of fair process and rational justification, and that failures in these respects go to the lawfulness of the decision itself. This reflects the wider public law principle that a decision-maker must take reasonable steps to acquaint itself with the relevant material and may not proceed on the basis of inadequate inquiry or unsupported assumptions of fact.

8.4 The Supreme Court's decision in *R (UNISON) v Lord Chancellor* [2017] UKSC 51 further demonstrates that the courts will look beyond formal compliance with legal powers to the practical and systemic effects of a scheme. There, the Court made clear that measures which, in substance, undermine access to justice and the rule of law cannot be justified merely by reference to formal legality or administrative convenience. This authority stands as a reminder that structural or systemic impacts are legally relevant, and that public law does not permit the erosion of fundamental principles through apparently technical or incremental changes.

8.5 More recently, in *R (Alliance of Turkish Business People Ltd) v SSHD* [2020] EWCA Civ 553, the Court of Appeal confirmed that while the Government is in principle entitled to change immigration policy, the fairness of doing so, the weight to be given to reliance interests, and the presence or absence of adequate transitional arrangements are all legally relevant considerations in assessing the lawfulness and fairness of such change. The judgment illustrates that even where a policy change is within the scope of the executive's powers, the courts will scrutinise whether its implementation unjustly disrupts settled reliance or operates in an unfair or disproportionate manner.

8.6 Finally, the systemic lessons of the Windrush scandal, as documented in official reviews and parliamentary material, provide a powerful institutional warning. They illustrate the institutional risks that can arise where deficits in legal certainty, inadequate communication, and the absence of effective transitional protections are left unaddressed, with severe human and administrative consequences. These lessons are not merely historical; they constitute a direct and contemporary warning as to the risks inherent in reforms which affect the status and rights of long-resident, lawfully present individuals without robust safeguards.

8.7 Taken together, this line of authority and institutional experience forms a clear and consistent trajectory of judicial and constitutional concern: where policy change risks (i) frustrating legitimate expectations and reliance, (ii) proceeding on an inadequate evidential or procedural basis, (iii) relying on formal characterisation to mask substantive unfairness or systemic impact, or (iv) failing to provide adequate transitional protection, the courts have repeatedly treated such defects as going to the lawfulness of the decision itself. Viewed against this jurisprudential background, the present proposals would be liable to fall within a category of reform which attracts particularly anxious scrutiny, including decisions taken amid acknowledged data gaps. This demonstrates that courts will scrutinise not only formal legality, but **the real-world systemic**



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effects of policy design where those effects undermine legal certainty, fairness, or access to justice.

9. Legal and administrative consequences and the duty of conscientious consideration

9.1 Taken together, the material set out above points to a consistent and serious warning: proceeding without robust transitional protection would give rise to substantial risks to legal certainty, procedural fairness, and trust in the immigration system, and would materially increase the likelihood of legal and administrative challenge. The combination of (i) the accrued and crystallising status of those already on the established route, (ii) the absence of a robust evidential foundation and the presence of unsupported assumptions of fact, and (iii) the sustained and authoritative warnings from across Parliament, professional bodies, employers, academia and civil society, including SWJA's own procedural and evidential material at [Appendix S1–S6] means that this is not a matter of mere policy disagreement, but one which squarely engages the lawfulness of the decision-making process itself. This is not a challenge to the merits of policy, but to the lawfulness of proceeding below the minimum public law threshold.

9.2 In particular, in light of the accrued and crystallising status of those already on the established route, and the evidential and legal concerns identified in Sections 3–8 above, any decision to proceed without adequate safeguards would risk repeating systemic failures that have already been identified and documented in other policy contexts.

9.3 The Department is accordingly under a duty to give conscientious and genuine consideration to the substance of consultation responses and to all relevant and significant evidence placed before it. That duty extends not merely to acknowledging the existence of such material, but to grappling with its substance and explaining, in the Consultation Outcome, how the principal concerns raised have been addressed or, if rejected, on what rational and lawful basis.

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10. Procedural posture, the Evidence Bundle, and requests

10.1 While the formal consultation phase has concluded, the Department's public law duties in relation to lawful, rational, and fair decision-making continue. This further submission, together with the accompanying Executive Summary, Evidence Index, and consolidated Evidence Bundle, is provided to ensure that the administrative record accurately reflects the full evidential and legal context relevant to the Department's decision for the purposes of any subsequent scrutiny. This includes the risk that any decision would be taken on an inadequate evidential basis and unsupported assumptions of fact, in circumstances engaging the highest standards of public law scrutiny. These steps are not sought as a matter of form, but in order to assist the Department in ensuring that its final decision is taken on a fully informed, transparent, and procedurally robust basis, and in a way that both meets the Department's public law obligations and commands public confidence in the fairness and integrity of the process.



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10.2 For ease of reference and effective consideration, the Evidence Bundle has been structured into thematic sections, including:

- (A/W) Legal and professional authority and case-law;
- (P) Parliamentary and oversight material;
- (S) SWJA empirical and procedural material;
- (E) Employer and industry evidence;
- (R) Academic and think tank research;
- (C) Civil society, local authority and trade union material;
- (M) Media analysis and reporting.

A detailed Evidence Index is provided to enable precise navigation of these materials.

10.3 In these circumstances, and in order to support a lawful, rational, and procedurally robust decision-making process, SWJA respectfully requests that the Department:

- (i) Confirms that the Executive Summary, Evidence Index, and all indexed materials are placed on the administrative record;
- (ii) Gives conscientious consideration to those materials in the formulation of the Consultation Outcome and any subsequent decision;
- (iii) Addresses expressly the issues of (a) non-retrospectivity, (b) legal certainty and legitimate expectation, and (c) the position of those already on the established route to settlement; and
- (iv) Adopts and articulates a clear, robust framework for transitional protection / grandfathering for the affected cohort, supported by adequate and transparent impact assessment.

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11. Reservation of rights

11.1 Nothing in this submission should be taken as a waiver of any rights, arguments, or remedies available to SWJA or affected individuals. **All rights are expressly reserved.**