



SKILLED WORKER JUSTICE ALLIANCE

Written Evidence Submitted by the Skilled Worker Justice Alliance (SWJA)

Inquiry: Call for Evidence – The Future of Legal Migration and the “Earned Settlement” Framework (Inquiry 3795)

Date: 23 January 2026

Purpose of this Submission

This submission addresses the proposed Earned Settlement framework (CP 1448) from the perspective of existing Skilled Worker visa holders. It focuses on the necessity of non-retrospectivity (grandfathering) to preserve legal certainty, economic resilience, and public service continuity.

About the Skilled Worker Justice Alliance (SWJA)

- The SWJA represents a highly diverse talent pool of over 1,000 professionals across a **broad spectrum of critical sectors**—including IT specialists, petroleum engineers, ESG consultants, and civil engineers, alongside frontline pharmacy managers, healthcare practitioners, logistics experts, and hospitality managers—who collectively serve as the **indispensable technical and operational backbone** sustaining the UK’s economic growth, energy security, and public service delivery.
- Our members are not "migrant labour" in the transient sense; they are skilled professionals who relocated to the UK based on the explicit legal framework of a five-year qualifying route to Indefinite Leave to Remain (ILR).
- Our alliance was formed to address the systemic risk posed by sudden policy shifts that threaten the stability of families and the operational continuity of the strategic sectors in which our members serve.

Executive Summary

This submission argues that the proposed Earned Settlement framework, if applied retrospectively, fails not only on grounds of fairness and legality, but because it rests on incorrect assumptions about worker behaviour, labour substitutability and system resilience. Even assessed against the Government’s own objectives of stability, control and economic resilience, retrospective earned settlement is counter-productive.

1. **The Core Argument:** The SWJA submits that any move to apply new “earned settlement” criteria retrospectively to those currently on the five-year route would constitute a breach of **Legitimate Expectation**, undermining the Rule of Law and mirroring the unlawful errors identified in *HSMF Forum (UK) Ltd v Secretary of State for the Home Department [2008]*.
2. **The Economic Reality:** Restricting settlement acts as “economic sabotage”. It relies on a “**Substitution Fallacy**”—the assumption that if skilled migrants are forced out, domestic workers will seamlessly fill the gap. Evidence from our members in community pharmacy, hospitality, and creative sectors proves that domestic structures cannot immediately absorb these “**highly needed but not highly paid**” roles due to their operational intensity.
3. **The Human Cost:** Extending the pre-settlement period creates a “Guest Worker” underclass. Families face structural exclusion from mortgages and education costs rising to **£80,000 per child**, forcing the exit of tax-paying professionals during their peak productivity years.
4. **Recommendation:** We urge the Committee to recommend that any changes to settlement rules must be **prospective only**. Transitional protection (grandfathering) is a legal and moral necessity.

I. Recent developments in Government policy on settlement and citizenship

1. What is the policy intention behind the proposals on settlement and citizenship, and will the proposed changes have the intended effect? What are the terms and conditions of settlement in the UK?

The stated intention is to shift from an “automatic” system to an “earned” one. The SWJA submits that this premise is factually flawed. The current five-year route is **already earned**, not automatic.

- **Current Conditions:** Settlement currently requires 5 years of continuous lawful employment, genuine
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sponsorship, absence of criminal record, tax compliance, and self-sufficiency (No Recourse to Public Funds/NRPF).

- **Intended Effect vs. Reality:** If the intention is to reduce net migration by forcing residents to leave after 5–8 years, the effect will not be a managed reduction, but an **operational shock** to key industries. By moving the goalposts, the Government risks converting the UK from a global talent hub into a “**Jurisdiction of Whim,**” where the rules of the game are rewritten mid-match.

2. Is it preferable to have a system whereby it is hard to get a visa but easier to get permanent status, or easy to get a visa but harder to get permanent status?

It is economically and socially preferable to have a “**Hard Visa / Secure Settlement**” model.

- **Retention is Key:** The UK currently operates a “Hard Visa” system (high salary thresholds, English language, sponsorship). Once a migrant clears these high hurdles, they should have a clear runway to settlement to encourage integration and investment.
- **The Consequence of “Hard Settlement”:** Making settlement harder creates a “**Sponsorship Trap.**” We observe skilled workers (e.g., marketing managers, engineers) refusing promotions because a change in job code might trigger new visa applications or reset their settlement clock. This results in “**Brain Waste**”—highly qualified staff remaining in junior roles to protect their visa status, suppressing UK productivity.

3. What does the Government mean by the concepts of “earned settlement” and “earned citizenship”, and what should the terms mean?

The Government appears to be redefining “earned” to mean “delayed” or “conditional on constantly shifting salary thresholds.”

- **Our Definition:** For a Skilled Worker, “earned” should mean **compliance with the rules as they stood at the point of entry.**
- When a migrant accepts a job in the UK, they enter a de facto contract: “*Contribute your labour and taxes for five years, obey the law, and you will be granted settlement.*” To alter the definition of “earned” retrospectively is not increasing standards; it is a breach of trust.

4. What are the implications of having many long-term residents on temporary visas without access to ILR and/or citizenship?

Extending the pre-settlement period (e.g., to 10 or 15 years) creates a structural “**Guest Worker**” underclass. The implications are severe:

- **Financial Exclusion:** Mainstream lenders routinely deny mortgages to those with limited leave. Landlords reject tenants with less than 6 months remaining on a visa.
- **The “One Illness” Risk:** Under a 5-year route, resilience is possible. Over a 10–15 year period, the risk of a serious illness or family emergency increases. Without ILR, a Skilled Worker is one tragedy away from losing their life’s work.
- **Education Penalties:** Children of temporary visa holders are often charged international student fees. For a family with two children, this results in an estimated additional cost of **£80,000** for undergraduate degrees. This effectively bars the children of taxpayers from higher education in the country they call home.

5. Are public attitudes and concerns related to immigration and citizenship being addressed? What are the wider issues that the Government is considering in making these changes?

Public concern often centers on “fairness.” However, retrospective changes are inherently unfair and offend the British sense of natural justice. The wider issue ignored by the Government is **System Resilience.**

- We urge the Government to consider the “**Highly Needed but Not Highly Paid**” workforce. Our members in hospitality and community pharmacy work 48-hour weeks, covering nights and weekends. These roles are critical to local economies but often sit below RQF Level 6 or high salary bands. Removing the promise of

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settlement for these workers does not address public concerns; it creates service vacuums in local communities.

6. The Labour Substitution Fallacy: A System Resilience Failure

- A recurring assumption underpinning the Earned Settlement proposals is that skilled migrants who exit the UK can be readily replaced by domestic workers. Evidence from SWJA members across hospitality, community pharmacy, care, logistics, and creative industries demonstrates that this assumption fails in practice.
- These sectors rely on a small number of experienced, full-time staff working long hours—including nights, weekends and public holidays—to stabilise and coordinate much larger, often part-time workforces. When this experience-holding layer exits within a short timeframe, delivery capacity deteriorates rapidly even if headline staffing numbers appear unchanged.
- This is not a question of whether replacement is theoretically possible, but whether delivery systems can absorb the short-term loss of accumulated experience, regulatory familiarity and operational responsibility. Policy that assumes seamless substitution therefore risks acute service disruption rather than gradual adjustment.
- Across all of these sectors, even where domestic workers can be recruited, turnover is typically high. This is not a matter of individual preference or culture, but a consequence of job design: sustained night work, regular weekend shifts, absence of predictable public holidays, continuous responsibility, regulatory exposure and limited short-term progression. Under the same conditions and incentive structures, any workforce group will exhibit similar churn patterns.

7. What are the implications of the proposed changes on the devolved nations of the UK and on the Common Travel Area?

Retrospective restriction disproportionately harms the devolved nations, particularly Scotland, which relies heavily on migration to offset demographic ageing. A UK-wide restriction on settlement undermines the economic strategies of the devolved administrations, which are actively seeking to *retain* working-age populations.

II. Historical and International Context

1. How does the UK's policy on permanent residence and citizenship compare with other countries, particularly those in Europe and the Commonwealth?

The UK is becoming an outlier. Competitor nations like Canada and Germany offer clear, contractually stable pathways to permanent residence. If the UK adopts a policy where settlement terms are fluid and retrospective, we become a high-risk destination. Global talent effectively conducts a risk assessment; if the "deal" is liable to change, they will choose jurisdictions with greater **Legal Certainty**.

2. Are the concepts of "earned settlement" and "earned citizenship" consistent with historical British policy?

Retrospection is inconsistent with historical British legal principles.

- **The HSMP Precedent:** In *HSMP Forum (UK) Ltd v Secretary of State for the Home Department [2008]*, the High Court ruled that applying new, stricter criteria to those already in the UK was unlawful. Justice Collins held that the claimants had a **Legitimate Expectation** that the rules would not change to their detriment.
- Applying "earned settlement" retrospectively would repeat this historical error, inviting costly judicial reviews.

3. In the light of previous errors and failings (such as the Windrush scandal), is the Home Office capable of implementing policy changes?

The SWJA holds significant concern regarding implementation capacity. Specifically, we question whether the Home Office has conducted a **Systematic Impact Assessment** regarding three critical areas (as raised in our internal

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inquiries):

1. **Retention Behaviour:** Has the Home Office modeled how many existing staff will leave immediately if the route is extended?
2. **Practical Substitutability:** Has the Home Office looked beyond theoretical numbers to see if domestic workers can *actually* absorb the operational intensity (nights/weekends) of these roles?
3. **Cumulative Operational Shock:** Have they assessed the impact of a concentrated exit of experienced staff? Without this assessment, the Home Office is flying blind, assuming **Labour Substitution** where none exists.

In this submission, “economic sabotage” refers not to intent, but to outcome: policies that, by retrospectively destabilising a settled and experienced workforce, undermine productivity, service continuity and sectoral resilience in ways that cannot be rapidly reversed through domestic recruitment.

4. Relating to Citizenship Deprivation Orders, is the UK now a country where citizenship is becoming more difficult to obtain and easier to lose?

Yes. The expansion of deprivation powers, combined with the proposed lengthening of the route to settlement, creates an atmosphere of permanent insecurity. For the Skilled Worker, the message is that their status is never truly safe, which inhibits full social integration and investment in the UK.

III. The Citizenship Process

1. Is the process of applying for ILR and Citizenship too complex, or is complexity unavoidable?

The complexity is largely manufactured. The constant restating of Immigration Rules creates a landscape where even legal professionals struggle. For the applicant, this complexity is weaponized; a minor error in counting days of absence—years after the fact—can lead to refusal. Complexity should not be a tool for attrition.

2. What are the total costs and requirements of applying for ILR and citizenship, and how do they compare with other countries?

The UK has some of the highest fees in the world.

- Between visa fees, the Immigration Health Surcharge (IHS), and eventual ILR/Citizenship fees, a single applicant contributes tens of thousands of pounds.
- When combined with the **£80,000 education penalty** mentioned previously, the cost of “becoming British” is becoming prohibitive for anyone other than the ultra-wealthy, excluding the nurses, teachers, and engineers the UK actually needs. These pressures do not operate in isolation, but act as the primary trigger for exit decisions among mid-career skilled workers, directly feeding into the workforce losses and service disruption described above.

3. What should be the purpose of the Life in the UK Test? ... Are there other ways of assessing a person’s commitment?

The current test is often a trivia exercise.

- **Real Commitment:** The true test of commitment is found in the daily contributions of our members. The Restaurant Manager working 6 days a week to keep a business afloat; the Pharmacy Dispenser managing patient safety; the Creative Producer building the UK’s media exports.
- These individuals have already demonstrated commitment through years of tax contribution and lawful conduct.

4. Under the Immigration White Paper’s expansion of the points-based system, what will happen to those who never ‘earn’ enough points to achieve ILR or citizenship?

This creates a dangerous “limbo” population. If individuals contribute for years but fail to meet a retrospectively heightened threshold, they are forced to either leave (causing workforce gaps) or overstay (creating enforcement issues). A binary system of “Qualify or Leave” after 10 years of residency is inhumane and administratively

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unworkable.

5. Is citizenship a right or a privilege? Who is entitled to citizenship?

Citizenship is a privilege to be granted upon the fulfillment of clear criteria. However, **Legal Certainty** is a right. Once an individual has entered the track and fulfilled the criteria laid out at their time of entry, the grant of status should be a matter of legitimate expectation, not discretionary privilege subject to political winds.

6. Does the Government do enough to promote citizenship?

The Government sends mixed signals. While ceremonies celebrate arrival, the policy framework creates hostility. You cannot effectively promote citizenship while simultaneously making the path to achieve it precarious and prohibitively expensive.

IV. Applying for Citizenship and its impact on integration and social cohesion

1. What are the advantages of becoming a British citizen versus remaining on Indefinite Leave to Remain?

Citizenship offers the only true protection against the "Jurisdiction of Whim." ILR holders remain subject to rule changes and deportation. For integration, citizenship provides the psychological safety required to fully commit to the nation—to buy homes, start businesses, and raise families without the fear of removal.

2. Does the UK have an 'integration problem'?

To the extent there is a challenge, it is exacerbated by state-sponsored insecurity. It is psychologically impossible to fully integrate when the State signals: *"You are temporary. We reserve the right to change the terms of your stay at any moment."* By pushing settlement a decade into the future, the Government forces migrants to keep one foot out the door, delaying social and financial rooting.

3. Can a system which emphasises high skills and English language afford to be more generous in terms of integration policy?

Absolutely. Skilled Workers are the ideal cohort for generous integration policies. They are employed, they speak English, and they pay taxes. They require zero public funding. Treating this group with suspicion or precariousness is counter-productive. Generosity in settlement terms buys loyalty and long-term economic contribution.

4. Should it be a requirement that everyone is able to speak some English before they come to the UK?

Existing Skilled Workers **already** meet strict English language requirements. This question is largely irrelevant to the cohort we represent, who are already working in English-speaking environments. Focusing on this distracts from the core issue: the retrospective alteration of their rights.

Conclusion & Recommendations

The members of the SWJA are not asking for special treatment. We are asking for **contractual fidelity**. We accepted the UK's invitation to work and build lives here based on a published set of rules.

We respectfully request the Committee to recommend:

- **No Retrospection:** New settlement rules must apply only to new entrants.
- **Transitional Protection:** Explicit grandfathering for those on the 5-year route.
- **Mandatory Impact Assessments:** The Home Office must assess **Retention vs. Substitution** in "highly needed but not highly paid" sectors before implementing policy.

Submitted by:

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