



RUNNYMEDE TRUST WRITTEN CONSULTATION RESPONSE TO:

Earning the Right to Stay – A New Points Based Test for Citizenship

26 October 2009

Contact details:

The Runnymede Trust
7 Plough Yard
London EC2A 3LP
Tel: 020 7377 9222

Email: info@runnymedetrust.org

Web: www.runnymedetrust.org

We welcome the opportunity to submit our thoughts and views on the Government's Green Paper 'Earning the Right to Stay – A New Points Based Test for Citizenship'.

CHAIR
Clive Jones CBE

TRUSTEES
Aaqil Ahmed
Dr Claire Alexander
Barbara Cohen
Farzana Hakim
Hitesh Patel

A Company
Limited by Guarantee
Registered Company
(England)
No. 3409935

Registered Charity
No. 1063609

VAT Reg. No.
GB 340 581 3 76

The Runnymede Trust is an independent policy research organisation focusing on equality and justice through the promotion of a successful multi-ethnic society. Our mandate is to promote a successful multi-ethnic Britain – a Britain where citizens and communities feel valued, enjoy equal opportunities to develop their talents, lead fulfilling lives and accept a collective responsibility, all in the spirit of civic friendship, shared identity and a common sense of belonging. Refugee and migration issues are of special interest to us, as the changing nature of ethnic diversity in Britain is intricately linked to changing patterns in global migration.

Runnymede has followed the development of this policy agenda closely. We submitted a detailed response to *The Path to Citizenship* Green Paper, where we presented a strong case – supported by solid evidence – for why the substantive content of the proposals in the Green Paper would be the wrong way for the UK to go. We also submitted a response to the Draft (partial) Immigration and Citizenship Bill, outlining the high stakes and potentially harmful effect the Immigration and Citizenship Bill would have on race equality if it passed.

Unfortunately, the Borders, Immigration and Citizenship Act 2009 was more or less based on the ideas set out in *The Path to Citizenship* and the Draft (partial) Immigration and Citizenship Bill. In the current Green Paper, the Government intends to “take the principles behind earned citizenship one stage further” by introducing a “new test in the earned citizenship architecture, to determine who will be allowed to proceed along the path to settlement” (p. 6). The Government proposes to do this by extending their Points Based approach to citizenship.

It is Runnymede's conviction that there should be no points based test for citizenship. Rather than answering the questions on the pro-forma – which we think are the wrong questions to ask – we demonstrate below why the 'earned citizenship' agenda is antithetical to the stated policy aim of enhancing integration and cohesion. In doing so, we present strong evidence – from our own research as well as from the Migrant Integration Policy Index (MIPEX) – to support our case. We challenge the Government to provide evidence for its own claims.

The concepts of 'earned' and 'probationary citizenship'

The recently passed Borders, Immigration and Citizenship Act 2009 builds on the Points Based System's notion of 'selective migration', but adds to it the twin concepts of 'earned citizenship' and 'probationary citizenship', which were first introduced in *The Path to Citizenship*.¹ The thinking behind these concepts is couched in notions of Britishness. The Green Paper states several times and in different ways that this piece of the immigration reforming process is about "putting British values at the heart of the system"² and is designed to "contribute to the government's wider agenda of reinforcing shared values".³ The ultimate aim is to build community cohesion through promoting shared bonds and values, and ensuring that some communities do not isolate themselves. Importantly, however, this framework presupposes migrants to be undeserving and suspect by default, and that it is therefore both reasonable and acceptable to require them to prove their worthiness and commitment to Britain: "The key feature of the proposed system is that it aims to increase community cohesion by ensuring all migrants can 'earn' the right to citizenship and asks migrants to demonstrate their commitment to the UK by playing an active part in the community".⁴ In our response to *The Path to Citizenship*, Runnymede used the MIPEX to calculate Britain's MIPEX score should these proposals be adopted:

Given the proposals on economic resources, integration, good character, and active citizenship, the conditions for naturalisation in the UK could go from [a] "middle of the road" (score 57) to becoming some of them [sic] most onerous in Europe, on par with Austria and Denmark (a score of 26).⁵

Nonetheless, the negative and accusatory tone adopted in the Green paper, along with the basic tenets of the concepts of 'probationary' and 'earned citizenship', was implemented in the Act. These concepts are deeply flawed. First, 'probationary citizenship' is a contradiction in terms. As well as certain duties, citizenship in liberal democracies bestows certain rights, most prominently the right to full and equal participation in the political process. Should this be lacking, it is no longer appropriate to speak of citizenship. By breaking down the equality of citizenship, 'probationary citizenship' would amount to a category of second-class citizenship, which is generally regarded as a violation of human rights. Second, if the State declares categories of people to be required to 'earn' basic civil equality, this will obviously affect not only their self-worth, but also the worth in which other people view them. Thus, the introduction of 'probationary' and 'earned citizenship' is likely to have the opposite of the intended effect and engender resentment and therefore create tension and reduce cohesion.

Why the Government is wrong on 'earned' and 'probationary citizenship'

Over the last 3 years, Runnymede has conducted a series of Community Studies exploring some of Britain's smaller, more hidden, and often voiceless communities and ethnic groups. As part of this, we collected in-depth interviews, narratives and accounts from nearly 300 individuals throughout the UK. This evidence contradicts the view that migrants do not want to participate in British society, whether socially, civically or economically, and that the government therefore needs to devise policies to force them to do so. Contrary to the assumptions guiding the 'path to citizenship' agenda, there is no inherent contradiction in belonging to more than one place, or committing to more than one location, group of people or set of ideals. Our interviewees saw nothing paradoxical – let alone untoward – with being a British Moroccan, a British-born Vietnamese or a Bolivian Londoner. New migrants are under no illusion that belonging needed to be earned. In this sense, belonging was often formulated in terms of

¹ Home Office (2008) *The Path to Citizenship: Next Steps in Reforming the Immigration System*. London: Home Office.

² UK Border Agency (2008) *Making Change Stick: An Introduction to the Immigration and Citizenship Bill*. London: Home Office. Available under: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/makingchangestick.pdf>

³ Ibid.: 11

⁴ Ibid.: 12

⁵ Runnymede Trust (2008a) *Runnymede Trust Response to 'The Path to Citizenship': The Next Steps in Reforming the Immigration System*. Available under: <http://www.runnymedetrust.org/uploads/policyResponses/PathToCitizenship.pdf>

contribution, and many interviewees would stress how they work hard, pay their taxes, do not access benefits, play an active part in the local community and wider society, and do not break the law.

Even if the objective is to make the most of migrants' contribution to Britain – this stands at the heart of all current government thinking on migration, including how and when to grant citizenship – it would be more fruitful to focus on how migrants can be given a stake in society, rather than placing further and bigger obstacles in their path to citizenship. Such a focus would necessarily have equality and rights at its centre. Yet the issue of rights has been lost throughout the entire development of the 'path to citizenship'. Our Community Studies indicate that migrants and their motivations are not the problem where integration and community cohesion is concerned. Most have fairly modest aims to better the lives of themselves and their family, and therefore have instrumental reasons for wanting to integrate. A bigger threat to integration and community cohesion is the racism and discrimination that places them at a disadvantage in the labour market, belittles their contribution to society, and prevents them from engaging with major British social institutions and taking full part in society.

MIPEX Impact Assessment

As mentioned above, Runnymede used the Migrant Integration Policy Index (MIPEX) to calculate Britain's MIPEX score should the *Path to Citizenship* proposals be adopted; the results demonstrated that the proposals would make the naturalisation process in the UK one of the most onerous in Europe.

Given the stated aim of the *Earning the Right to Stay* Green Paper – “to support [prospective citizens] in integrating fully and enabling them to contribute to their new communities” (p. 21) – we again consulted the MIPEX on this issue. The results are an indictment on the proposals set out in the Green Paper:⁶

The Green Paper's proposals would make the language and integration conditions for British citizenship and ILR [Indefinite Leave to Remain] one of the most onerous and complicated in countries of immigration. The UK's MIPEX scores would be less like Canada or France's and more like the most restrictionist practices in Germany, Greece, Lithuania, The Netherlands, or Switzerland.

The overall impact of the points-based system would be to make British citizenship and ILR even less favourable system for promoting the integration of the UK's settled residents. The naturalisation conditions introduced in the 2009 Act and Green Paper would become the least favourable (a score of 26) in the 27 countries surveyed. This rating would put the UK among the likes of Austria, Denmark, Germany, Greece, and Switzerland.

Applicants for ILR would face the worst eligibility (20) and some of the most onerous conditions (32) in the UK. On eligibility, the UK would perform so poorly because nearly all EU Member States agreed to grant permanent residence no more than five years after arrival, while traditional countries of immigration like Canada and the US grant it upon arrival. Here, the UK's closest peers would be Cyprus, which might be infringing EU law, and Ireland, which at the time of the 2007 MIPEX, did not even have a long-term residence status to speak of.

Conclusion

The Government claims that the proposals set out in *Earning the Right to Stay* is about supporting prospective citizens “in integrating fully and enabling them to contribute to their new communities”. Yet it has not provided any evidence that the proposals will achieve this. Conversely, we have in this

⁶ The full assessment is available as annex A. We are indebted to the Migration Policy Group for providing us with this analysis.

response presented concrete evidence – both from our own Community Studies as well as the MIPEX – that the proposals will be antithetical to the integration of migrants and prospective citizens.

We have presented the Government with this evidence in previous consultation responses, but we are increasingly dismayed to see that policy developments in this field are clearly not based on evidence. As a consequence, we suspect that the driving principle of this agenda is not about integration and cohesion, but rather a populist effort to appear tough on migration. We urge the Government to reconsider its proposals in *Earning the Right to Stay*.

Thank you for considering our response and the concerns and issues we highlight. We look forward to learning the result of the consultation process and the next steps the government intends to take on citizenship.

If you would like to discuss any aspect of this response, please contact Rob Berkeley (Director) at the Runnymede Trust, 7 Plough Yard, Shoreditch, London EC2A 3LP Tel: 020 7377 9222.

The Runnymede Trust
07/08/2009

Further information about the Runnymede Trust can be found on our website: www.runnymedetrust.org

Annex A: MIPEX Impact assessments on British citizenship and permanent residence

The second edition of the Migrant Integration Policy Index (MIPEX) had concluded that two of the UK's areas of strength for promoting long-term integration were its policies for foreign residents to become British nationals and permanent residents. Indeed, these policies were the fifth most favourable of the 27 countries surveyed in 2007.

MIPEX also monitors the trends and dynamics behind integration policy change. For instance, another of the UK's areas of strength—anti-discrimination—had improved since the first MIPEX in 2005, with passage of the 2006 Equality Act. Since the study, a new MIPEX prospective impact assessment has been conducted as part of the Runnymede Trust's response to the Home Office's 2008 Green Paper on the path to citizenship. It cautioned that heading down the path of probationary citizenship was likely to slow down—rather than speed up—the integration of the UK's foreign residents who do not have an EU citizenship.

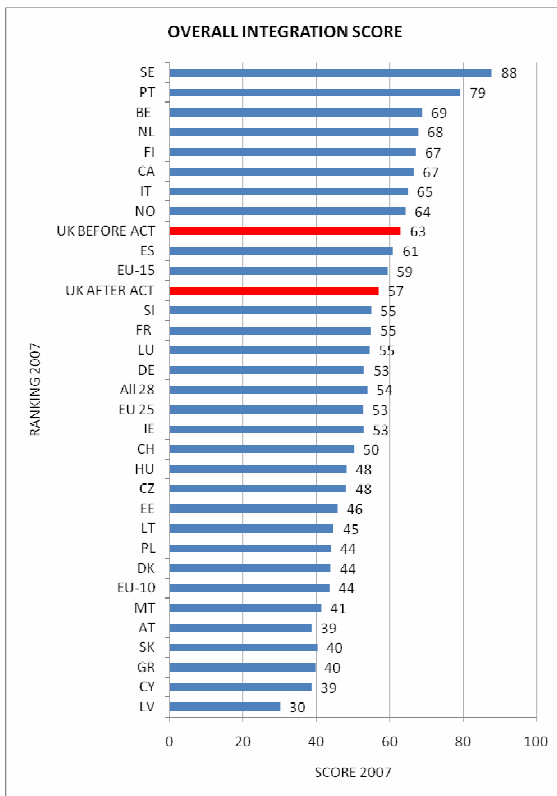
2009 Borders, Citizenship and Immigration Act: the MIPEX retrospective impact assessment

After passage of the Borders, Citizenship and Immigration Act, MIPEX assessed how the introduction of “probationary citizenship” would impact the lives of a wide range of foreign residents who see their future in the UK. The assessment focused on the eligibility requirements and conditions facing migrant workers, families, and the spouses/partners of British citizens who want to settle permanently in the country or be treated equally as British citizens. They will have to prove they have been provided for or fully employed for a longer period of time, not as long if they can also prove that they are somehow “active” in civic life.

If the Act is implemented in July 2011, the UK's policies on naturalisation and ILR would go from being slightly favourable means to promote integration to become areas of weakness in UK legislation.



They would likely fall halfway down the rankings, as both policies would perform no better than in most countries on the continent where integration is increasingly politicised and volatile. With a naturalisation ranking of 13th, the British would become as guarded of their passports as the Swiss or the Finnish, whereas they had previously scored as historically welcoming of aspiring citizens as the Canadians, Irish, or French. The other option for settled non-EU residents in the UK, ILR, would be just as unattractive, ranking about 18th of the 27 countries surveyed. Britain's peers would be countries that have the most restrictive legislation, such as Austria, Greece, or Switzerland, or those that attract few migrants at all, such as Eastern European countries.



The MIPEX retrospective impact assessment also determined how much this change in approach would weaken the contribution that the UK's overall legal framework was making to integration. Resulting in an overall 6-point-drop in the UK's MIPEX score (58), the new living conditions set by country's legal framework would no longer be assessed on the MIPEX rubric as slightly favourable for societal integration. Rather, these delays, conditions, and opportunities to withdraw a legal status within these procedures would leave Britain's non-EU residents only halfway secure in their residence status. A more insecure future in Britain may have the effect of delaying and even discouraging immigrants and local communities from investing in integration.

2009 Green Paper on a new points test for citizenship: another MIPEX prospective impact assessment

As part of Runnymede's response to the 2009 Home Office Green Paper, the MIPEX can be consulted to get some perspective on this new debate about a points test for citizenship. At present, the UK's language and integration assessments required of applicants for ILR (56) and naturalisation (57) do not come out as easy to pass on the MIPEX rubric. They appear to be no better or worse than those in most countries of immigration, according to the March 2007 edition (69 and 59 respectively).

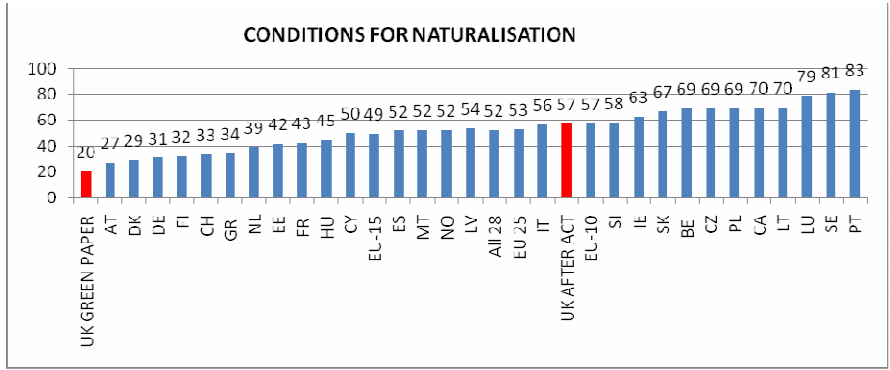
LANGUAGE AND INTEGRATION CONDITIONS	FOR PERMANENT RESIDENCE	FOR NATURALISATION
AUSTRIA	7	64
BELGIUM	100	100
CANADA	64	57
CYPRUS	80	50
CZECH REPUBLIC	100	100
DENMARK	33	36
ESTONIA	56	36
FINLAND	100	75
FRANCE	44	42
GERMANY	22	17
GREECE	22	25
HUNGARY	100	57
ITALY	100	100
LATVIA	63	29
LITHUANIA	22	8
LUXEMBOURG	100	50
MALTA	100	67
NETHERLANDS	13	14
NORWAY	50	67
POLAND	100	100
PORTUGAL	100	83
SLOVAKIA	79	83
SLOVENIA	100	83
SPAIN	100	63
SWEDEN	100	100
SWITZERLAND	30	17
UK AFTER ACT	56	57
UK GREEN PAPER	11	8

In a BBC interview, immigration minister compared his new proposals to other countries, saying; *“This is what America does, it is what France does, it’s what other countries do and we think we should do the same.”* A MIPEX fact-check shows that it is current UK practice (57) that actually scores much closer to the levels and types of assessments in Canada (57), France (42), and most EU Member States (59). Indeed many countries that are introducing assessments are modeling them on the UK’s established tests, guides, courses, oaths, and ceremonies.

With this context in mind, a new MIPEX prospective impact assessment focused on the Green Paper’s suggestions to add new conditions to the established courses and tests through a new points system. Authorities could grant points for different levels of knowledge, skills, and behaviours, as well as play with these levels at their discretion on an ongoing basis. Authorities could also take points away from immigrants to lengthen their period of probation and sanction whatever they temporarily define as non-integration. Other ideas floated in the paper and impact assessment are mandatory orientation courses at the start of the system, plus higher fees and costs throughout.

The Green Paper’s proposals would make the language and integration conditions for British citizenship and ILR one of the most onerous and complicated in countries of immigration. The UK’s MIPEX scores would be less like Canada or France’s and more like the most restrictionist practices in Germany, Greece, Lithuania, The Netherlands, or Switzerland. These are approximations, since many elements of a points-system go way off the MIPEX scale, so far is this idea from any other country’s citizenship practices or any international legal standard. Countries’ citizenship policies often differ about how to support migrant integration, which is reflected in their MIPEX scores. Yet none explicitly try to manage the number of people progressing to citizenship, which is inherent to a points-system made for migration control.

The overall impact of the points-based system would be to make British citizenship and ILR even less favourable system for promoting the integration of the UK's settled residents. The naturalisation conditions introduced in the 2009 Act and Green Paper would become the least favourable (a score of 26) in the 27 countries surveyed. This rating would put the UK among the likes of Austria, Denmark, Germany, Greece, and Switzerland.



Applicants for ILR would face the worst eligibility (20) and some of the most onerous conditions (32) in the UK. On eligibility, the UK would perform so poorly because nearly all EU Member States agreed to grant permanent residence no more than five years after arrival, while traditional countries of immigration like Canada and the US grant it upon arrival. Here, the UK's closest peers would be Cyprus, which might be infringing EU law, and Ireland, which at the time of the 2007 MIPEX, did not even have a long-term residence status to speak of.

