**British Future Inquiry: status of EU nationals in the UK - Call for evidence
Coram Children’s Legal Centre’s response, September 2016**

Coram Children’s Legal Centre (CCLC), part of the Coram group of charities, is an independent charity working in the United Kingdom and around the world to protect and promote the rights of children, through the provision of direct legal services; the publication of free legal information online and in guides; research and policy work; law reform; training; and international consultancy on child rights. Founded in 1981, CCLC has over 30 years’ experience in providing legal advice and representation to children, their parents and carers and professionals throughout the UK. The CCLC’s legal practice specialises in education, family and immigration law and CCLC operates several free advice phone lines including the Child Law Advice Line and the Migrant Children’s Project Advice Line. The Migrant Children’s Project at CCLC provides specialist advice and legal representation to migrant and refugee children and young people on issues such as access to support and services. As part of CCLC’s work to promote the implementation of children’s rights, CCLC has undertaken amicus curiae interventions in a number of significant cases, including in the European Court of Human Rights, the Supreme Court and the Court of Appeal, providing assistance to the court on matters of children’s rights and best interests.

CCLC firmly believes that the best interests of the child must be a major factor in all decisions about policy relating to EU nationals in the future and should not be outweighed by considerations related to border control. One of the main concerns regarding EU nationals is the position for young EU nationals, who may be looked after and accommodated by social services, care leavers or living with their family in the UK. Our advice line deals with a large number of queries from children and families, as well as professionals working with those children and families, relating to EU law and the changes in the future. This is likely to increase due to the ongoing uncertainty surrounding the UK’s exit from the EU and the status of EU nationals in the future.

Permanent Residence

Confirming settlement for those EU nationals who qualify permanent residence would be the best policy option at this time. This will alleviate stress and concerns of those EU nationals as a result of Brexit. There will need to be a set date for leaving the EU and those qualifying for permanent residence on that date should be able to apply for indefinite leave to remain. In addition, those who are in the UK on that date and who do not yet qualify for permanent residence, should be given the right and time to meet the conditions for settlement. The government may set out transitionary provisions relating to those who have not qualified and there should be enough time given to those who have not qualified for permanent residence at the date of leaving the EU to have the chance to apply for settlement if they continue to qualify.

EU children in care and care leavers

There are some issues for many young EU nationals and families, who may not have sufficient evidence to show they qualify for permanent residence. A common example is of young EU nationals taken into care. They have been taken into care through no fault of their own but do not often reach the requirements for permanent residence as they are likely either not exercising treaty rights, do not have comprehensive sickness insurance and/or are no longer a family member of an individual exercising treaty rights.

Those in care often do not access the necessary legal advice and representation to resolve their status before turning 18. This can be either due to lack of knowledge of issues around EU law and immigration by professionals; the local authority not ensuring the child receives legal advice; lack of good quality legal advice; and lack of cooperation or information from family members of the child in care.

It is crucial that those young EU citizens who are taken into care are protected, and continue to be protected. There should be specific provisions for those EU children in care, and EU care leavers, to be able to obtain leave to remain or settlement in the UK at the time of leaving the EU, and leaving the EU should represent an opportunity to regularise all these young people who would have status but for the lack of connection with their qualifying family members. Any settlement in relation to leave must have sufficient flexibility to include those who are affected prior to the cessation of free movement rights in the UK. In the event that free movement is retained, we would want to see this group catered for, as the referendum result is an opportunity to address this unfair and problematic position.

Legal advice & legal aid

Another major issue of concern is that child EU nationals or EU national families will not be able to access good quality legal advice. EU law and the laws around free movement are already extremely complex, and likely to become more so as the UK starts the process of leaving the EU. There is currently no legal aid for EU matters bar making an application for Exceptional Case Funding from the Legal Aid Agency. There is some free advice, particularly in London – for example from the AIRE Centre and the Migrant Children’s Project – but pro-bono representation is very limited.

Children in care will normally need the local authority to pay for legal representation but this often does not occur in a timely fashion, if at all, in practice. It is crucial that social workers involved with EU children in care ensure that the child receives good quality advice and representation as a matter of urgency. This need has only increased following the result of the EU referendum. However, EU care leavers and families receiving support from local authorities will also struggle to obtain legal advice without having to pay for this advice as local authorities are unlikely to assist in paying for this advice.

EU nationals in areas outside of London and major urban areas often struggle to obtain legal advice and representation due to the limited number of immigration practitioners in certain areas of England and Wales. With need likely to increase, it is reasonable to assume that this problem will increase over the next few years.

**For more information, please contact:**

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