

## House of Lords Select Committee on Citizenship and Civic Engagement call for evidence – Coram submission, September 2017

Coram Children's Legal Centre (CCLC), part of the Coram group of charities, is an independent charity working in the UK 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; training; and international consultancy on child rights. The CCLC's legal practice specialises in education, community care, family and immigration law and CCLC operates several free advice phone lines including the Child Law Advice Service. The Migrant Children's Project at CCLC provides specialist advice and legal representation to migrant and refugee children and young people as well as legal guidance and training to practitioners on the rights of young refugees and migrants. CCLC is chair of the Refugee Children's Consortium, a coalition of over 50 organisations working for promote and protect the rights of young refugees and migrants.

Coram's Young Citizens is a voluntary programme for young people from migrant and refugee backgrounds. It enables young people to work with children, young people and professionals to improve the experiences and integration of migrant children and young people and increase public understanding of their needs and experiences. The Young Citizens see the UK as their home and want to contribute to British society. They challenge discrimination and negative stereotypes by promoting positive messages and championing their contributions.

The evidence in this submission comes from the work of the Migrant Children's Project, the views of the Young Citizens programme members and from research undertaken by Coram Life Education to inform the co-production with Young Citizens of resources for schools.

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### **What does citizenship and civic engagement mean in the 21st century? Why does it matter, and how does it relate to questions of identity?**

1. When discussing citizenship and civic engagement, Coram believes it is important to acknowledge the place and importance of young people who have grown up in the UK, who feel strongly that they are British and who want to contribute to society in the same way as their British counterparts, but who are not citizens in law. Coram works with a significant number of children, young people and families who are prevented from fully being part of British life because the immigration and nationality systems in this country are complex, expensive and often unfair – blocking putative citizens from securing settled status even if they have lived most or all of their lives here.

2. Five years ago the University of Oxford estimated that there were 120,000 undocumented children in the UK, 65,000 of whom were born here.<sup>1</sup> Despite growing up in the UK, thousands of children and young people are living in a form of legal limbo, unable to regularise and fully contribute to society, due to lack of free legal advice, high application fees and an inaccessible immigration system.<sup>2</sup> Often these children and young people are in the UK with their families, but neither they, nor their siblings have made an active choice to come to live here. Some of those who are undocumented have been unsuccessful in their asylum claims, but many long-term undocumented children and young people are not in need of international protection. A young person who has leave to remain in the UK on the basis of their family or private life will usually be granted 2 ½ years leave, and will need to renew this four times, before they can apply for indefinite leave to remain (after which they can apply for citizenship). The costs for a family of four paying to reach settlement is equivalent to a deposit on a house: at current rates the ten year process would cost £33,000 in application fees alone.
  
3. If you have no leave to remain you cannot work, cannot access benefits, cannot open a bank account, cannot rent a property and cannot hold a driving license. Many children and young people with limited leave to remain are blocked from accessing further and higher education. Student loans and home fees for university, for example, are only available to someone who is over 18 if they have spent half their life in the UK and been able to regularise their status at least three years previously.<sup>3</sup> Therefore a 19 year old who has lived in the UK since the age of ten may still be blocked from accessing higher education. The problems with the current immigration system mean that many young people fall back into undocumented status.

#### **4. Case study**

Agnes is 20 year old and has been in the UK since she was nine. She had lawful leave to remain for around nine years, had gone through the education system and was making plans to attend university. But her family could not afford legal advice and representation when she was turning 18 and needed to renew her visa. Her application was rejected and her leave ran out. Although she was later granted leave again, by that point she had been through a period of being undocumented, which means she now must wait another ten years before she can get permanent status. She has an offer of a place to study biochemistry, but has been blocked from going to university because her status means she cannot access student finance. In her words: *“The impact of being undocumented for so many years weighs heavily. It’s stress, it’s heart-breaking and most of all you feel as though you don’t belong in the one place you call home.”*

5. British Citizenship is the most secure position for a child. If a person has British citizenship, they are not subject to immigration control: they do not need leave to enter or remain in the UK. They can apply for a passport and travel freely, enjoying protection from British embassies abroad. The stability British citizenship brings is important for the child’s development, wellbeing

<sup>1</sup> University of Oxford, ‘No way out, no way in: Irregular migrant children and families in the UK’, 2012, at [https://www.compas.ox.ac.uk/media/PR-2012-Undocumented\\_Migrant\\_Children.pdf](https://www.compas.ox.ac.uk/media/PR-2012-Undocumented_Migrant_Children.pdf)

<sup>2</sup> Coram Children’s Legal Centre, ‘This is my home’: Securing permanent status for long-term resident children and young people in the UK’, June 2017 at <http://www.childrenslegalcentre.com/this-is-my-home/>

<sup>3</sup> Following the case of *Tigere* in the Supreme Court, anyone applying for a student loan must have been ordinarily resident in the UK for three years prior to the first day of the course. See *R (on the application of Tigere) (Appellant) v Secretary of State for Business, Innovation and Skills (Respondent)* [2015] UKSC 57

and sense of their own identity, and is important for children and young people's political participation. Citizenship is permanent and can only in very rare cases be revoked. By contrast, if someone has indefinite leave to remain and they are convicted of a criminal offence, it is likely that the Home Office will consider revoking their leave and deporting them. Too many young people in the criminal justice system, including those who have been in care, face having their leave revoked and being deported, sometimes to a country they have not been to since they were an infant. Some of these young people could have obtained British citizenship if only the right application had been made for them.

6. While many young people face a long immigration process before they can naturalise as British, a significant number of children are already eligible to be registered as citizens but are unable to do so. Nationality applications have, since 2007, been subject to the same escalation of fees as immigration applications. As of 6 April 2017, the fee for citizenship applications is £973, of which £587 is profit to the Home Office. In many of these cases what is being charged for is a pre-existing entitlement under the British Nationality Act 1981, where the Home Office has not been asked to grant but is merely required to register the child's citizenship – to recognise the child's pre-existing right at the time of his or her registration application. Where an application is made for discretionary citizenship by children without a pre-existing right, then decision-making has also been found to be inadequate.<sup>4</sup> Children requesting discretionary citizenship are often those who have spent long periods in care, and whose future is assessed as being in the UK, or whose parents and siblings are settled or are citizens. These problems block many children from registering as British Citizens.
7. The government view is that 'citizenship can never be an absolute right, nor is it necessary in order for a person to reside in the UK and access our public services. A person who is settled in the UK is not required to become a citizen by a certain date: they can remain here until they can meet the criteria for doing so, including payment of the required fee.'<sup>5</sup> Yet, its own guidance states that 'becoming a British citizen is a significant life event. Apart from allowing a child to apply for a British citizen passport, British citizenship gives them the opportunity to participate more fully in the life of their local community as they grow up.'<sup>6</sup>
8. Coram is raising these concerns because there are thousands of young people in the UK who are citizens in all but name: who have grown up in the UK and are socially integrated members of our communities. They are trapped in a vulnerable and precarious state by the laws and policies that determine their access to permanent status. Coram recommends increased support for long-term resident children and young people to engage with immigration and nationality systems which must be fair, efficient, affordable and accountable. Assistance in accessing routes to regularisation should be available to all children and young people through, for example, confidential support at college, within local authorities and through specialist legal advice. As a

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<sup>4</sup> See Project for the Registration of Children as British Citizens (PRCBC), Systemic obstacles to children's registration as British citizens: Legal research report, November 2014, at <https://prcbc.files.wordpress.com/2015/08/systemic-obstacles-on-the-registration-of-children-as-british-citizens.pdf>

<sup>5</sup> HL Deb 21 March 2016, vol 769, part 129, col 2217, available at: <http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160321-0004.htm#16032216000138>

<sup>6</sup> Guidance on the MN1 form on which children register as British

result, communities will benefit from the full economic and social contribution of newly-enfranchised and motivated young citizens already in their midst.

9. Identifying citizens by their entitlement to hold British nationality is exclusionary, and even where couched in positive terms, risks discriminating against those who do not hold citizenship. There are many children and young people who are born abroad living in the UK, including EU children, who do not hold British citizenship. In addition, a great many children have parents who were not born in the UK, and 28% of births in 2016 were to mothers born outside the UK.<sup>7</sup> Citizenship and nationality should be separated; many young people do not hold British nationality but feel strongly that they are citizens of the UK, and engage in their civic duties here.
10. Ambassadors on the Young Citizens programme were asked what 'citizenship' means to them. Their responses were: responsibility; help; security; belonging; identity; home; community; and shared interests and values. Although many of the young people on the programme do not have legal citizenship, they deserve to be seen as equal members of society, and to feel a sense of belonging, community and security in the UK.
11. With the vote to leave the EU, it is likely that young people from European countries who are unclear about the future relationship between the UK and the EU are unsure of their futures. Citizenship of an EU member state provides someone with the same protections in the UK as in their country of nationality, and this has meant that many EU families and children have not taken any additional steps to demonstrate their entitlement to remain in the UK. However, this reciprocity of citizenship will end with Brexit, and during the negotiation period, the Home Office has more strictly applied criteria for removal and hate crimes have increased.<sup>8</sup> Whilst there is a settlement offer for EU nationals, it is inevitable that some people, particularly those who rely on the rights of family members and may be third country nationals themselves, will find themselves forced to use the immigration system.

**Civic engagement can be seen as both a responsibility and a right of citizenship. Beyond the existing legal framework, should citizens have additional formal rights and responsibilities?**

12. CCLC cautions against any discussion of additional formal rights for 'citizens' of the UK. The post-war human rights framework recognises 'the inherent dignity ... and inalienable rights of all members of the human family'<sup>9</sup> and it is vital to remember that people have basic rights by virtue of being human. The idea of earned rights risks diminishing the rights available to the most vulnerable in our society. Rights are not earned by paying taxes to a particular government and do not come with possession of a particular passport. As the recent treatment of migrants and asylum-seekers across Europe has demonstrated, it is often non-citizens, in law and in practice, who are most often in need of human rights protection.

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<sup>7</sup> ONS, Parents Country of Birth, England and Wales 2016  
<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/bulletins/parentscountryofbirthenglandandwales/2016>

<sup>8</sup> Fullfact.org 'Hate Crime and the European Referendum' <https://fullfact.org/crime/hate-crime-and-eu-referendum/>, accessed 24 August 2017

<sup>9</sup> Preamble to the Universal Declaration on Human Rights.

13. Human rights are universal in nature and are not dependent on the moral worth of the individual in concern. For example, a person cannot be denied a right to a fair trial because they are suspected of having committed a crime. The Human Rights Act already requires rights to be read together with Article 17 of the European Convention on Human Rights, which provides that the Convention does not give anyone a right to do anything that would destroy or unduly limit other people's human rights.<sup>10</sup> A wealth of criminal and civil law exists to ensure that people act in accordance with their responsibilities to the state and other individuals.
14. Past research carried out on behalf of the Ministry of Justice warned that the focus on responsibilities in the rights context may represent 'an opportunity to introduce new restrictions on human rights' and concluded that '[j]urisdictions with liberal democratic traditions tend, on the whole, towards implicit or rhetorical recognition of duties'.<sup>11</sup> It warned that even rhetorical or aspirational statements about duties could 'risk undermining rights by implying that the fulfilment of duties is an essential prerequisite to the enjoyment of certain rights'.<sup>12</sup>
15. A more effective means of encouraging civil engagement and highlighting the importance of individual responsibility would be to inform people about their existing rights and correlating responsibilities. Education of this kind would significantly improve public understanding and ownership of human rights. As part of its recommendation to lower the voting age, the UN Committee on the Rights of the Child recommended the use of 'active citizenship and human rights education in order to ensure early awareness of children that rights are to be exercised as part of citizenship, with autonomy and responsibility'. It also recommended making 'children's rights education mandatory'.<sup>13</sup> We would support those recommendations; education on rights, and on respecting the human rights of others, is an important part of citizenship and civic duty.

**What are the values that all of us who live in Britain should share and support? Can you identify any threats to these values, which affect the citizenship of, for instance, women or various minority groups? If so, how can their citizenship be strengthened?**

16. As outlined above, universal human rights are a framework for rights and responsibilities within a value system. The Universal Declaration of Human Rights emphasises the duties towards ones community that is a part of respecting the rights of others.<sup>14</sup>
17. Values of mutual respect and tolerance of those with different ethnic origins, race, nationality and beliefs are important to promote from a young age. Personal, social, health and economic (PSHE) and Citizenship lessons can give students the opportunity to unpack viewpoints they may not have previously questioned. It is important that this type of education is given precedence within the curriculum. With increased attainment and financial pressures, these subjects can end up being deprioritised.

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<sup>10</sup> See section 1(1) of the HRA and Article 17 of the European Convention on Human Rights.

<sup>11</sup> Liora Lazarus, Benjamin Goold, Rajendra Desai and Qudsi Rasheed, University of Oxford, The relationship between rights and responsibilities, Ministry of Justice Research Series 18/09, December 2009, available at: <http://www.justice.gov.uk/publications/docs/research-rights-responsibilities.pdf>

<sup>12</sup> Ibid p 30

<sup>13</sup> Para 72 (g)

<sup>14</sup> Bright Blue, Fighting for Freedom, 2017, at <http://brightblue.org.uk/images/Fightingforfreedom.pdf>

18. Members of the Young Citizens group have expressed concerns regarding misinformation about migrants and why they come here. This can lead to xenophobia and fear, as well as isolation of communities with different groups avoiding mixing with those from different countries. Many in the group have been on the receiving end of racist views or been affected by negative press around migration, which can be a threat to values of respect and tolerance. They feel that the public don't hear enough about the people behind the numbers and that the voices of migrants need to be more prominent in the debate in order to give a true picture of the reality. This includes highlighting the skills and contributions of migrants in the UK and cultures and traditions that enrich the country.
19. Young Citizens group has also highlighted the importance of treating those new to the country with equal respect. During the immigration process, many experienced suspicion about their circumstances and age, and did not feel they were treated as individuals. More support is needed to help young people assert their rights, including explaining the law to them in their own language.

**How do you see the relationship between citizenship and civic engagement on the one hand and social cohesion and integration on the other? How can diversity and integration be increased?**

20. All the young people in the Young Citizens group want to integrate. One young person felt 'you should learn about British people if you live here'. They felt the best way to learn about British people was to mix with them but for some they lacked the opportunities to do so: 'I don't have much contact with people who were born here in college. I haven't had opportunities to mix as all classes are with ESOL students'. They observed that migrants do sometimes stick together – moving to areas with people from the same country and mixing with people from their own community. This was understandable as people want to be with those that are similar to them, who have the same native language and who relate to their experiences. People need to feel welcomed and have opportunities to meet people outside their own community. The group felt that the government had a role to play in running programmes to help people integrate, and then 'people will then give more back to the country because they're in a position to do so'.
21. Young people could benefit from guidance and support to help facilitate their integration. This could include supporting them to get involved in activities such as sport, youth clubs and places of worship that are core to the local community. Involvement in volunteering can also help build skills and facilitate integration, but should not be obligatory. They felt that by giving them responsibility, young migrants would feel empowered and able to take control of their lives.
22. One young person said that the government should 'help the community not isolate new arrivals'. They said it was important for local people to understand what young people moving to the UK may have been through in order to have empathy for their situation. And felt it was the combined responsibility of everyone in the community to accept each other's religion and beliefs. One young person said it was important 'to increase the host community's awareness of cultural issues, language issues and what it means to be a person of colour'. They suggested welcome events or local activities and enrichment days to share cultures. Within schools they suggested support that could be put in place, such as buddy systems, linking children up with

organisations and activities, showing them around the local area and giving them information on their rights and entitlements.

23. The group also felt that young people from migrant backgrounds want to integrate, but that it is important they feel secure, settled and safe in order to be able to do so. To improve the situation, they felt that local authorities needed more funding to support migrants more fully to access their entitlements and enable them to settle. Access to English classes was also recognised as a key part of assisting integration.
24. Teachers have reported to us that minority groups can often feel stigmatised within schools, with children feeling fearful of disclosing their immigration status to teachers and their peers. It is important that a focus on citizenship does not become divisive, and stigmatise those without British nationality status. Teachers fed back that a mix of ethnicities and nationalities can be a real asset, as 'students become part of the teaching resource and can learn from each other. A cultural mix in schools enables children and young people to thrive in the 21st century and progress'. Personal, social, health and economic (PSHE) and Citizenship education can help to increase understanding of different cultures and beliefs. However, it can be harder to make lessons meaningful in majority white British schools when students feel more detached from the topic and do not regularly come into contact with people from different backgrounds. This means it can be hard to truly embed it into the culture of the school.

**Can you give examples of initiatives and role models that have helped promote a positive vision of British Citizenship within a tolerant and cohesive society?**

25. Coram's Young Citizens network is an ambassador group of 16-25 year olds from migrant and refugee backgrounds. It is an example of a project working with young people who do not all have legal citizenship but who see the UK as their home and are involved in civic engagement, making an active contribution to UK society. They act as positive role models who are passionate about making a difference and using their experiences to improve the situation for children and young people new to the UK. Ahmed, one of the Young Citizens ambassadors has 'always wanted to give back to the society' and wants to use his stories 'to motivate and encourage young people'.
26. Through public engagement at institutions including British Museum and Southbank Centre and through local and national press activity, the Young Citizens promote positive citizenship and a society where everyone can contribute and belong. They have co-produced a teaching resource with specialist educators Coram Life Education, requested by schools to increase social cohesion and inclusion. Interactive lesson plans and films explore what it means to belong from the perspective of children and young people born both in and outside the UK. The teaching resource enhances Personal, Social, Health and Economic education (PSHE) and enriches school values, including empathy for others and respect for diversity. Feedback from the pilot lessons has been overwhelmingly positive with one teacher reflecting that 'Coram gave us the chance to reinforce [the school's values] and helped us assess the children's understanding of belonging and their part in making others feels welcome and valued.'