

Consultation: the Mayor's Vision for a Diverse and Inclusive city Coram Children's Legal Centre's response, September 2017

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. 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 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 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.

1. Are these the right priorities? Are there other priorities we should consider?

Coram Children's Legal Centre (CCLC) works with a significant number of children, young people and families who are prevented from fully being part of London life due to immigration issues. Therefore, we welcome the acknowledgement of diversity as recognising difference and that the 'opportunities we get are impacted by characteristics beyond those protected by legislation'. 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.¹ Even those born in the UK or living their entire lives here may need to apply for leave (permission) to remain in the UK.

The Vision Statement recognises that 'we draw huge strength from the contribution made by immigrants who have chosen to make London their home'. While CCLC believe that the priorities identified cover many of the issues we see in our day to day work, we feel that more attention needs to be paid to the impact that immigration status has on Londoners' ability to integration and contribute to London life. Over a third of those in London (41% in inner London and 35% in outer London) having been born abroad; this includes children and young people who are brought to the UK, as well as children who are part of family units whose parents are born abroad.² Working with migrant children and families in London, we frequently see the impact that immigration status had on other types of inequality – for example pregnant women denied healthcare due to their immigration status.

Thousands of undocumented children and young people are unable to regularise their status,³ living in a form of legal limbo. Young Londoners from migrant backgrounds are forced into a high-cost, long-term process in order to regularise. 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

¹ 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

² Migrants in the UK: an overview. Migration Observatory Oxford, (2017) <http://www.migrationobservatory.ox.ac.uk/resources/briefings/migrants-in-the-uk-an-overview/>

³ 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/>

four times, before they can apply for indefinite leave to remain. High application fees have been identified by charities and youth groups as one of the main barriers to regularisation. The costs for a family four paying to reach settlement is equivalent to a deposit on a house: at current rates the 10 year process would cost £33,000 in application fees alone.

Without leave to remain, a young person cannot work, access healthcare, rent property or hold a bank account. Not having long-term leave to remain prevents young people and children from planning for their futures, and it prevents inclusion. Affording the immigration fees is necessarily prioritised ahead of other opportunities, healthcare or work. It prevents people from gaining new skills, gaining decent jobs, or owning property because of fears that they will be removed from the UK, or will be unable to afford the fees for their next renewal.

As a result of the Immigration Acts 2014 and 2016, anyone living in the UK with limited leave to remain can be considered by the Home Office as having 'precarious' status. This means that their contributions to society, the work that they have undertaken and their family lives can all be considered as temporary, rather than working to establish a permanent home here. This, combined with the increasing administrative burden on employers and landlords, has an impact on the ability of people who have limited leave to remain to build their lives in the UK. The necessity of conducting immigration checks impacts on the lives of those with limited leave to remain, indefinite leave and British citizens, for example in London maternity wards where all pregnant women must present identification before accessing services. This prejudices the most vulnerable in London, including destitute British national or foreign national women.

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. This impacts on the ability of individuals to plan to enter education or the workforce. 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.

To look at a few issues in depth:

Housing and homelessness (Priority Outcomes 1.1: Affordable, accessible decent homes and 2.1; Child Poverty Reduction)

Whilst the consultation identifies issues around precarious status and the right to rent in priority outcome 1.1, accessing affordable housing does not alleviate the discrimination highlighted by JCWI and others. Furthermore, someone with limited leave to remain or no immigration status will be barred from renting housing association property if they have a no recourse to public funds condition on their leave to remain, even where they have the right to rent.

Many migrant families who are unable to access privately rented accommodation are reliant on support provided by the local authority under section 17 of the Children Act (support for children in need). Young people and those without children who are facing the same issue are at risk of homelessness. Whilst they are not necessarily street homeless, in our work with young people we

frequently come across those who are sofa-surfing, staying with friends or otherwise reliant on charity.

London boroughs should be provided with support and guidance when tackling housing need and homelessness as a result of immigration status. Too frequently we support families who seek support through children's services but are turned away by gatekeeping, and in 2015 research from the University of Oxford highlighted the high thresholds for accessing services used in some London local authorities.⁴ Clients we have seen have reported being threatened with arrest for attending social services departments, even where they have limited leave to remain. The standard of accommodation provided is frequently poor, and even families with leave to remain or European free movement rights are required to move regularly or placed too far from children's schools or the families' support network.⁵ This contributes to child poverty and prevents attempts to break the poverty cycle for children and young people from predominantly BME groups (Priority outcome 2.1)

The right to rent is discriminatory, and is particularly problematic for those applying to renew their leave, as they are required to submit original documents to the Home Office and have no means of providing the requisite identification, despite living in the UK lawfully.⁶ Given that a large number of Londoners may have issues that relate to their right to rent, the Mayor should consider how to monitor the impact on Londoners who have limited leave, as well as other Londoners who may find themselves discriminated against. With a clearer picture of the problem, the Mayor should consider how to reduce the impact of the policy within the city.

Recommendations

The Mayor should:

- *Ensure local authorities in London are monitoring those who seek section 17 Children Act support and recording the outcomes so that the extent of the link between NRPF and homelessness is clearer.*
- *Lobby the government and work with others to monitor and mitigate against the negative impacts of the hostile environment agenda, especially on migrant children who are marginalised and/or living in poverty.*

Access to education and services (outcomes 2.1: Child Poverty Reduction and 2.3: A skilled future workforce)

Inclusivity cannot be achieved in London without acknowledging the importance of immigration status for a significant proportion of the city's population. In addition to facing issues such as destitution, children and young people who are undocumented are restricted from full participation in work and education. Whilst children are able to go to school without status, many young people cannot go to university because they do not meet the eligibility criteria for a student loan. Student

⁴ Safeguarding Children from Destitution: Local authority responses to families with 'No Recourse to Public Funds', Spencer & Price, 2015, at https://www.compas.ox.ac.uk/media/PR-2015-No_Recourse_Public_Funds_LAs.pdf

⁵ No place to call Home, Hackney Community Law Centre, 2015, at <https://www.hclc.org.uk/wp-content/uploads/2015/12/A-Place-To-Call-Home-Electronic-Report1.pdf>

⁶ An in-time application to the Home Office will mean that someone's leave will continue on the same terms as previously by virtue of s3C Immigration Act 1971

loans and home fees are only available to someone who is under 18 and has lived in the UK for 7 years, or who is over 18 and has spent half their life in the UK.⁷ Therefore a 19 year old who has lived in the UK since the age of ten may still be blocked from accessing higher education.

Of particular concern to the Mayor and GLA given the prospective devolution of the adult education budget are the eligibility requirements for further education that restrict funding to students of certain immigration statuses, including those with no leave despite having grown up in London. EU nationals may also fall into gaps in funding eligibility, particularly following the UK's withdrawal from the European Union.

Young Londoners are deprived of the opportunity to go to university or to gain employment skills through further education, unless they can self-fund international fees. By denying these young people opportunities we prevent them from fully contributing, and place unnecessary barriers in their paths. We should not be excluding this group from a vision for a skilled workforce (outcome 2.3)

Migrant young people and families living in London are also excluded from accessing healthcare on the same basis as British and European national citizens. This means many children miss out on crucial early years health checks and contributes to health inequality. Research demonstrated that pregnant migrant women were likely to access ante-natal care later, and have more difficult child births with higher rates of interventions.⁸

The loss of public funding through local authorities has created inequalities in the services that migrant children and families can access. Children of families who have a 'no recourse to public funds' condition on their leave to remain cannot access free school meals, for example. While local authorities have a discretionary power to provide free school meals to any child, the cuts to local authority budgets means that few do. The Mayor of London could encourage schools within London to do this.

Recommendations

The Mayor should:

- *Explore funding for all children to have free school meals if they are from poor families. The exclusion of migrant children is stigmatising, and risks leaving these children hungry. In some cases, these children and families are supported by social services, but still do not receive free meals at school.*
- *Work with London universities to further develop scholarships and fee waiver schemes for young people who cannot access student finance due to immigration issues.*

⁷ 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

⁸ Charging pregnant women for NHS care and the Immigration Act 2014, Maternity Action, September 2013

Assistance in regularising status (Priority Outcome 1.4: Strong, connected communities)

CCLC welcomes the Mayor's new Citizenship and Integration Initiative, and planned efforts to support young Londoners to secure rights to residency.

A key issue facing many of the children and families that we work with is access to immigration advice, for which legal aid is no longer available. Any support for young London to secure rights to residency must include improvements to the provision of accessible and quality legal advice and representation across the city. CCLC has recommended that 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.

It is not known how many children in care have no – or time limited immigration status in London. In our research,⁹ we found that the majority of boroughs monitor the ethnicity of the children they look after, but not the immigration status unless those children are asylum-seeking and their care is funded by the Home Office. Undocumented children may be taken into care when they are undocumented, or in some cases may become undocumented when they go into care because the link with the visa holder is broken.

In 2016, the London Borough of Greenwich was fined by the Local Government Ombudsman¹⁰ for a failure to assist a looked after child with her citizenship, resulting in her loss of entitlement to register. Looked after children who do not seek asylum are often not given assistance with their immigration status, despite Home Office policies to grant discretionary leave consider indefinite leave to remain where a child's future lies in the UK, or to grant citizenship by discretion.

Local authorities must be assisted to access legal advice for the children in their care and to fund the cost of citizenship applications as there is no fee exemption for this.

Recommendations

The Mayor should:

- *Gather information and monitor the impact of immigration status on young people and families in London.*
- *Ensure that local authorities in London are aware of the immigration status of the children they look after, and ensure that these children receive timely advice about their immigration options. No non-asylum seeking looked after child should leave the care of a London local authority undocumented.*

⁹ 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/>

¹⁰ Case 13 019 106 Greenwich RB

2. What evidence of inequalities do you or your organisation have that we could include in our evidence base?

All of the points raised are based on evidence from our frontline services. Coram Children's Legal Centre runs outreach services in London, including in Croydon, Hackney and Haringey as well as a telephone advice line for children, families and those caring for them.

Our 2017 research 'This is my home': Securing permanent status for long-term resident children and young people in the UK',¹¹ brought together these frontline experiences with additional research to demonstrate that children who require leave to remain and who are not claiming asylum are frequently unable to make applications. They are restricted by the lack of free legal advice, the cost of making applications, and poor Home Office decision-making. Where young people and families are unable to make an application or are unsuccessful, then they are at risk of losing their employment, bank account, right to rent and access to medical care. This can happen in cases where young people have spent the majority of their lives in the UK and/or where they have previously held long periods of leave.

Our 2013 report 'Growing Up In A Hostile Environment: The rights of undocumented migrant children in the UK' explored the impact of the government's 'hostile environment' agenda on children in the UK and the barriers facing undocumented migrant children in accessing appropriate education, healthcare and support as a result of their immigration status, leaving them cut off from society and in many cases facing extreme poverty.¹²

3. What best practice exists in the areas we are focusing on that we learn from?

Whilst immigration is central government policy, there is scope for London to become a more open city, using examples of Sanctuary Cities in the USA. These cities forbid city officials and police from asking for documents demonstrating immigration status. In most instances, this is as a result of a formal resolution or policy paper, and the level of cooperation with federal authorities varies.¹³ Whilst acknowledging the different funding structures in the UK and the USA, locally funded services could be offered on a no-questions basis. If this were adopted to London, it may mean encouraging access to health services (such as the Doctors of the World clinic) and ensuring people get advice without a concern that they will be reported to the Home Office. In addition, consideration should be given to the use of immigration enforcement on public transport in London. The International Association of Chiefs of Police state that prioritising immigration enforcement risked immigrant cooperation in solving crimes and maintaining law and order.¹⁴ Whilst acknowledging the very different liabilities and criminal offences related to immigration control in the UK and the USA, MPS should ensure that victims of domestic violence, human trafficking and other offences are not prevented from reporting crimes committed against them as a result of their immigration status. The

¹¹ 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/>

¹² Coram Children's Legal Centre, 'Growing Up In A Hostile Environment: The rights of undocumented migrant children in the UK, 2013, at <http://www.childrenslegalcentre.com/growing-hostile-environment/>

¹³ Collingwood Research, 'The Politics of Refuge: Sanctuary Cities, Crime & Undocumented Migration (2016) http://www.collingwoodresearch.com/uploads/8/3/6/0/8360930/shelter_nopols_blind.pdf

¹⁴ IACP, 'Enforcing Immigration Law: The Role of the State, Tribal and Local Law Enforcement,

Mayor's office could assist in this by providing information within communities in different languages and providing guidance to police forces.

Best practice in social integration exists where young people from all backgrounds are supported to contribute. For example, a growing number of universities are offering scholarships to support asylum-seeking and refugee students to study, as well as supporting those who have grown up in London but whose immigration status precludes access to student finance.¹⁵

The Children's Pro Bono Legal Service (the project) is a partnership between Coram Children's Legal Centre (CCLC), Allen & Overy and DLA Piper, and an example of innovative working to address the lack of legal advice provision for migrant children in London. Hosted at CCLC, the service aims to harness the pro bono commitment of volunteer lawyers at partner firms in order to promote the rights of children in the UK to apply for and enjoy British citizenship. Working with children who are amongst the most at risk of breaches of their human rights, including destitution and barriers to progressing in education, CCLC and the partner firms provide quality, free-of-charge legal representation so that children with a right in law to become British citizens can exercise that right, and so that their parents can make any necessary applications that enable these children to effectively enjoy their citizenship rights. Following severe cuts to legal aid, the service provides much-needed capacity to ensure that children's human rights can be realised in practice.

4. Could we work together with your organisation on our priorities? How could we do this?

CCLC is very pleased to already be working with the GLA on the Citizenship and Integration Initiative. We would welcome the opportunity to work together to contribute to the Social Integration strategy, and in particular to secure young Londoners' residence/citizenship rights. We could also work together on the rights of EU national Londoners to make sure all Londoners can access their rights, including children.

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¹⁵ See, for examples, information on Student Action for Refugees website: http://www.star-network.org.uk/index.php/resources/access_to_university