

**A response from Migrant Voice and Brushstrokes Community  
Project to the  
ICIBI inspection of the Home Office's processing of applications  
for indefinite leave to remain in the UK as a partner of a person  
or parent of a child already settled in the UK (SET (M))  
17 November 2021**

**Who we are**

Migrant Voice is a migrant-led national organisation building a community of migrant voices to speak for ourselves and call for justice for all. <https://www.migrantvoice.org>

At our recent national network meeting on the 10-year route to settlement, which had more than 60 people in attendance we heard powerful testimonies and calls for change from members and individuals across the UK who are currently stuck on the 10-year route to settlement. You can see a short video with some of the messages from the meeting here: <https://www.youtube.com/watch?v=IjTaWtxAgk>

Brushstrokes Community project runs a wide range of community projects to participate and integrate into local communities. Among the services offered is Immigration Advice.

Brushstrokes deal with a high level of family life in country applications.

<https://www.brushstrokessandwell.org.uk>

**Introduction**

Over the past few years, we have had an increasing number of migrants sharing with us their experiences of struggling with the effect of paying high visa fees for an extended period of time. Migrants on the ten-year route to settlement are particularly struggling and they see the process as unjust and unfair, creating unnecessary stress and hardship and setting them up to fail.

**Patterns of concerns:**

We see several issues with the process which negatively impact the migrants we work with:

- The applicants' inability to access free or affordable advice.
- This can lead to situations where applicants either make incorrect or late applications and become overstayers, having to restart at year 0 for the settlement process when they submit new applications. They then become ineligible to work or claim benefits. If they have children, this means they may need to access emergency accommodation (under section 17 of the Children's Act) which is costly for the government (£1,000 a week for Local Authorities to pay for emergency accommodation). Children's education is often disrupted as they may have to travel miles to their school from the emergency accommodation, which may be a hotel.
- There are often delays in decisions being made by the Home Office. This has a number of knock-on effects.

- Some employers err on caution and dismiss applicants from work even though they still have the right to work while waiting for a decision on their visa. Employers are finding it difficult to obtain evidence of lawful employment from the Home Office.
- As a result, people end up destitute, out of work and treated as overstayers by employers.
- Some claim that they are unfairly overlooked for training or promotion as their employers are uncertain about whether these migrant workers are able to stay in the UK in the long-term.
- The uncertainty of not knowing if you will be granted a visa for over and above three months takes a serious mental toll on applicants. One of the most common inquiries the advice sector receives is “I’m worried about my application, why is it taking so long?”

### **Why 10 years?**

- This lengthy and costly process disproportionately affects low-income families including many who are also key workers.
- There is an understanding from all parties, both the Home Office and the applicants that there is a view to settlement. In this context, it makes little sense to put people through the arduous process of paying extortionate visa fees repeatedly over such a long period of time.
- The abovementioned stress then continues over 10 years, meaning that the individual needs to apply for and pay for visas four times before they can apply for Indefinite Leave to Remain. That means for these individuals on the 10-year route there are an extra two periods at the interval of 2.5 years (compared to those on the five-year route to settlement) where they can end up in limbo, through no fault of their own.

### **More discussion based, less adversarial, decision-making process**

- Our impression is that more recently, Home Office caseworkers are more proactively chasing up people for further information rather than refusing applications outright. This is good practice we would like to see continue and be adopted as official policy.
- Going further, we would welcome the Home Office disregarding any periods of overstay or late applications, where applicants have sent the wrong form in, had difficulties raising enough money for fees or did not apply for fee waivers because they were unaware of them. Especially, both the Home Office and the applicant are on the same page recognising that someone who has a British partner or child will ultimately obtain Indefinite Leave to Remain. It is in no one’s interest to prevent such an individual from being able to settle swiftly and easily.
- We also welcomed the development of simpler application methods with the EU settlement scheme app (which, despite some of the issues during the scheme’s roll-out phase, is comparatively simpler).
- The simpler application process for the EU settlement scheme meant you applied twice on your phone within 20 minutes, once for pre-settlement, and once more for settlement. This system could be developed and rolled out for people on the SET(M) SET(O) FLR(M) and FLR(FP) route, in line with The Home Secretary Priti Patel’s [stated aim](#) of wanting to streamline and simplify immigration rules.

### **Recommendations**

- Overall, we need a drastic reduction of visa fees, more in line with the actual admin cost, so they are more affordable. We also need a reduction of the ten-year route to settlement to five years as the length of time of uncertainty, paying high fees every 2.5 years and being in limbo cause unnecessary hardship for those who will eventually settle permanently in the UK, and adds cost to the Local Authority and the government.
- We need better information for employers on the right to work checks, so that migrants whose visas are still valid while waiting for a Home Office decision are able to continue working without any interruptions or hindrances.
- Access to advice should be affordable in any democratic country. We are seeing too many migrants who cannot access legal advice and therefore struggle to exercise their rights fully.

*“At the end THIS, when I have spent more money than I was able to save, after 10 years of trauma, the emotional, physical and mental pain I faced, the questions I ask myself a million time over: Will I ever be the same? Will I revert to the woman I was before I started my immigration journey? Am I able to put the fragments of my shattered morals back together?”*  
A Migrant Voice member

Finally, many of Migrant Voice members are currently going through the ten-year route and are willing to speak directly with the Chief Inspector and his team to explain their direct experience of the system.

‘I consent to the Independent Chief Inspector of Borders and Immigration retaining and processing the information and data in this email.’