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for London

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Submission re: Call for evidence from Independent Chief Inspector of Borders and Immigration for the inspection into the Home Office's approach to charging for its services

As a Member of the European Parliament representing the London region since 1999 I have dealt with a wide range of issues for my constituents, London residents, for nearly 20 years.

My office has had involvement in hundreds of individual cases where London residents have made citizenship, immigration and asylum applications to the Home Office. It is clear from such applications that they are often made by people with little disposable income, for whom the level of fees is a factor in whether to apply for status and where not applying can also have severe repercussions.

In recent years the level of fees for citizenship and immigration cases has been rising significantly. In many cases current fees are set at exorbitant levels. These levels are proscriptive and act as effective barriers for many wanting to regularise their status or move towards acquiring citizenship. The UK's fees for citizenship applications are amongst the highest in the world, according to the [Migrant Integration Policy Index](#).¹

There is a particular impact upon children with an entitlement to British citizenship, which is in conflict with the UK government's international obligations under the UN Convention on the Rights of the Child. This warrants close attention.

The gap between unit costs and fees charged.

The Home Office table of fees and unit costs at April 2018² shows that some fees are set at the level of unit cost.

However, there are numerous instances of fees being charged at levels bearing no relation to the unit cost. The fee for Indefinite Leave to Remain, is nearly ten times the unit cost. The fee charged is £2,389 whereas the unit cost is £243.

There is no acceptable justification for exorbitant fees which bear no relation to the actual unit cost incurred to the department. In the Indefinite Leave to Remain example, a profit to the Home Office of £2,146 is made on each application.

Unacceptable rise in fees

In April 2018 many fee categories rose by 4% compared to the previous year. However, as these were at exorbitant levels in the first place, these increases are also high. In the Indefinite Leave to Remain example, the 2018 fee is an annual increase of £92. As this fee is already ten-fold unit cost, an addition £92 charge is arbitrary. Over a period of years, such increases become exponential.

¹<https://www.freemovement.org.uk/citizenship-for-sale-at-a-cost-stateless-people-can-ill-afford/>

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691200/Fees_Unit_Cost_Table_-_April_2018.pdf All fee figures subsequently quoted refer to this document.

This is well illustrated by comparing fees charged in 1983 with 2018. In 1983 the fee for registering a child as a British citizen was £35. Today it is £1,012.³ This represents some 140 hours gross adult pay at the National Living Wage for 2018: even more for 16-18 year-olds and represents a significant burden for low-income families or looked-after children.

Government justification of exorbitant fees is unacceptable

On 14 May I wrote to the (then new) Home Secretary Sajid Javid questioning exorbitant fees bearing no relation to unit costs. I received a reply from Immigration Minister Caroline Noakes giving the following justification:

*'Fees have increased in recent years to ensure that the BIC (Border Immigration and Citizenship) system is fair and equitable to all. The Home Office believes it is right that a greater share of the cost of operating the system is borne by those applicants who directly use it. The Home Office does not make a profit from application fees charged above the estimated cost of processing the application. Any income generated above the estimated unit cost is **used to contribute to the wider operation of the BIC system.**'⁴*

This is profit-making for the department in all but name. Given that some fees are charged at unit cost and other fees are charged at ten times the unit cost, some fee payers are making significant contributions to the running of the BIC system whilst other are not. The Home Office does not explain why some fee payers are required to bear this burden while other fee payers are not. It does not seek to make any difference between those who have an entitlement under the law and those that do not, nor does it appear to have considered the cumulative effect of fees on families or individuals over a period of time, such as those seeking citizenship. The waiver of fees for groups experiencing particular difficulties (for example: looked-after children) does not seem to be exercised.

It is clear that the current fee regime does not meet the Government's own objective that *'the BIC (Border Immigration and Citizenship) system is fair and equitable to all'*. **A truly fair and equitable system would remove the profit element entirely and simply charge fees no higher than at the level of estimated unit cost.**

Fees for Indefinite Leave to Remain and Citizenship

The application fees for Indefinite Leave to Remain (IDL) and for adult British Citizenship are examples of exorbitant charges that make significant profit per application which bears no relation to the quoted unit cost to the department. IDL is charged at £2,389 whereas the actual unit cost is £243, giving a profit of £2,146 per application. Adult nationality (British Citizenship) is charged at £1,126, whereas quoted unit cost is £372, giving a profit of £754 per application.

Obtaining ILR requires legal residence for at least 10 continuous years, and applying for British Citizenship via this route would normally require ILR status.⁵ This means that in practice same individual may have been charged multiples of the above fees: fees for visa applications, for leave to remain applications (which can extend leave by two years), for ILR, and for British

³1983 and 2018 figures quoted/referenced in Project for the Registration of Children as British Citizens (PRCBC) and Amnesty International, Fees Briefing, June 2018, p1:

https://prcbc.files.wordpress.com/2018/06/fees_briefing_revised_june_2018.pdf

⁴See Jean Lambert MEP letter to Home Secretary, 14.05.2018 <http://www.jeanlambertmep.org.uk/wp-content/uploads/2018/06/ltr-2018-05-14-Home-Secretary-application-fees.pdf> and Home Office reply, 14.06.2018 <http://www.jeanlambertmep.org.uk/wp-content/uploads/2018/06/JL-high-fees-letter-Home-Office-reply-14-06-2018.pdf>.

⁵See <https://www.gov.uk/long-residence>.

Citizenship application. Under the current fee regime, this scenario would cost many thousands of pounds. This 'multiplier effect' means that current exorbitant fees are even more prohibitive when assessed in the context of the rules under which they are applied in practice.

Fees for registering children as British Citizens

The fee regime for registering children as British Citizens needs particular mention.

The Home Office currently charges a considerable fee for the registering of children as British Citizens. The fee charged is £1,012. But the actual cost of the application to the Home Office is only £372. The application makes the Home Office a £640 profit.

Important work undertaken by the charity Project for the Registration of Children as British Citizens (PRCBC) and Amnesty International has detailed the extent of this problem⁶.

PRCBC has demonstrated that these high fees are acting as a barrier to children registering. The following three PRCBC case studies are worth quoting⁷:

J was born in the UK. His mother referred him to PRCBC when he was six years old. By that time, his parents had separated due to the father's domestic violence. His mother was aware the father had recently been granted indefinite leave to remain in the UK. Her church contributed a small donation towards the fee for her son to be registered. Over a period of nine months, she would lodge small sums of money with PRCBC until there was enough to pay the fee. This – along with the challenges of securing evidence of the father's status and violence – made J's a complicated case, which PRCBC dealt with exceptionally by keeping his file open requiring it to be periodically reviewed and supporting statements updated over an indefinite and extended period. (There is no legal aid for these cases; and PRCBC is not able to keep files open waiting to see whether sufficient funds will be available to pay a fee.) The delays in this case were discouraging to J's mother, and in other cases delays including those caused by the need to raise funds to pay the fee have ultimately led to a parent not pursuing a child's registration.

D, who was three years old when he was brought to the UK, was in receipt of assistance from social services. He had been offered a place at drama school. He had no leave to remain. He was referred to PRCBC as he was approaching his eighteenth birthday. They were able to assist him to apply to register as a British citizen. However, he could not afford the fee and the local authority refused to pay it. Had someone not donated to cover the fee, D would have lost his opportunity to be registered on turning 18.

E was born in the UK. She was taken into care aged five, at which time she was wrongly assumed to be British. She was a young adult when referred to PRCBC because her status had then been called into question by the Department of Work and Pensions. Social services, from whom she continues to receive assistance, initially offered to pay the fee for her to register as a British citizen, but while her application was being prepared decided not to do that. E has still not been registered. In addition to the fee, she faces other hurdles to securing the citizenship to which she is entitled – particularly in securing evidence to show she was resident in the UK for the first ten years of her life. Seeking to piece together the evidence is made more difficult by personal complications, some of which have led to her being sectioned on several occasions during her childhood. E's will to address these other hurdles is undermined by the fact that she still does not have the

⁶PRCBC and Amnesty International, Fees Briefing, June 2018.

https://prcbc.files.wordpress.com/2018/06/fees_briefing_revised_june_2018.pdf

⁷Ibid., p11.

necessary fee to register her British citizenship – from April 2018, £1,206 because she has turned 18.

These case studies are drawn from across the UK. However, PRCBC has knowledge of a significant number of such cases in the London region, the area I represent. My office has also dealt with cases where parents have been given conflicting or inaccurate information by the Home Office, leading to additional costs and stress.

As PRCBC and Amnesty International have highlighted in their reports on this issue, the UK Government, including the Home Secretary, has international duties to children under the 1989 UN Convention on the Rights of the Child:

The Secretary of State is “*bound under Article 3 to ensure primary consideration is given to the best interests of the child in exercising her nationality functions.*” The Secretary of State is also bound by Article 8 of the 1950 European Convention on Human Rights to respect the privacy and right to family life *of the child* in the exercising of her nationality functions.⁸

Under current UK legislation, section 55 of the Borders, Citizenship and Immigration Act 2009, the Home Secretary must have regard to the need to safeguard and promote the welfare of children in the UK, and this extends to nationality functions and the Home Secretary's statutory powers of setting fees. The current fee regime at it applies to child nationality applications is failing to meet these obligations and is in need of urgent reform.

I would like to fully endorse PRCBC/Amnesty International recommendations⁹ for changing the fee regime for child citizenship applications. As a minimum, key changes that need are as follows:

- The profit element should be removed from children's registration in all cases.
- Children or their parents/carers who cannot afford the fee should be granted a fee waiver
- There should be no fee charged for a child for whom a local authority is exercising responsibilities under the Children Act 1989.

Service provision

Generally, people seek assistance from my office when they are already experiencing difficulties with the Home Office. While this may give us a particular view of service provision as we do not see cases that have gone smoothly, some of the cases that we see raise profound concerns as to the quality of service provision and decision-making. In replies we receive from the Home Office we are currently seeing the use of “*the processing of this application has not been straightforward and we will be unable to make a decision within our customer service targets*”,¹⁰ even where the case does not seem to be particularly complex.

We also receive frequent replies from the HO asking for information or documentation which has already been provided and this raises questions as to levels of training, oversight or policy. People are paying large sums for a service they are not receiving. This can also result in significant additional costs when documents have to be reproduced and resent or legal advice sought. Competent, free legal advice is increasingly difficult to come by.

⁸Ibid., p5.

⁹Ibid., p9-10.

¹⁰Form of words included in Home Office replies to Jean Lambert MEP casework correspondence.

Other complaints concern original documents which have been held by the Home Office for lengthy periods – in one case, the passport of a constituent’s wife (a third-country national) had been with the Home Office for six years: she had been unable to pursue her international career, attend the funeral of a close relative or even travel abroad with her husband. By any definition, this is not decent service provision. There is no real redress. People are worried to take action in case this will result in a negative outcome. The imbalance of this power relationship is obvious.

Given that immigration rules now require landlords and other service providers to demand proof of identification and the right to residence, to be without a passport or any document showing that the Home Office has your documents, puts people in a very vulnerable position. Efficient service provision is essential.

Redress

Standard Visitor visa applications are expensive in local terms for people from some countries (e.g. Ukraine) and the process cumbersome, yet there is no appeal or review process available for this form of visa. During the Global Greens Conference in Liverpool in 2017, we saw various delegates refused visas: these included the secretary general of the Ecological Party of Uganda and president of the Eastern Africa Green Federation Green Party leader¹¹. I am aware of people refused visas who have said that they would be unlikely to try to visit the UK again, having had a visa application turned down, as they cannot afford to lose the money: given some of these are highly-talented students and researchers or politicians committed to democracy, the UK needs to be aware of the impact that the combination of costs, apparently hostile decision-making and lack of redress has on its international reputation. A visa refusal can also have other negative impacts on the individual concerned, should they need to apply for a visa for another purpose.

Concluding remarks

I have been struck by assurances from the Home Office that the system to be put in place for EU nationals after the UK leaves the EU, will see a change in culture in the HO to a system which is looking for reasons to say ‘yes’: this implies that the current system has a different purpose and that high fees are part of the system of dissuasion.

I can provide more information in relation to the above issues and examples on request.

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¹¹<https://www.independent.co.uk/news/uk/politics/uk-immigration-brexit-woman-denied-conference-visa-green-party-spring-congress-global-pakistan-a7655196.html>