



**Borders, Citizenship and Immigration Bill**  
**House of Lords Committee**  
**Part 2 Citizenship**  
**Clause 39 The qualifying period**

**ILPA supports the following amendments, laid variously in the names of the Baroness Hanham and the Viscount Bridgman; of the the Lord Avebury and the Lord Wallace of Saltaire; of those four peers together, and of the Lord Lea of Cornhill**

:

**Amendment 77\*** Page 31, line 28, leave out from "period" to end of line 29 and insert "is—  
(a) 6 years in a case within paragraph 1;  
(b) 3 years in a case within paragraph 2;

**Amendment 78** Page 31, leave out lines 30 to 33

**Amendment 79 \*** Page 31, leave out lines 30 to 42

**Amendment 80** Page 31, line 34, leave out "In the case of an applicant who meets the activity condition"

**Amendment 81** Page 31, leave out lines 38 to 42.

**Amendment 82** Page 31, line 40, leave out "otherwise than for payment"

**Amendment 83\*** Page 31, line 41, after "activities" insert "or trade union activities"

**Amendment 84** Page 31, line 42, leave out subsections (2) to (5).

**PURPOSE**

Most of the amendments in this group are focused on removing all reference to the activity condition and thus removing it from the Bill. They also provide an opportunity to *probe* whether a person will be permitted to fulfil the activity condition at any stage during the qualifying period. If so, the case for 'probationary citizenship

leave' is weakened still further and the case against it as a wholly unnecessary complication is strengthened.

The exceptions are **amendments 82 and 83\***. **Amendment 82** is the amendment to leave out the words 'otherwise than for payment', which is an alternative to removing the activity condition. It would mean that paid work could count toward fulfilling the 'activity condition. **Amendment 83\*** is in a similar vein, it would allow trade union activities to count toward fulfillment of the activity condition. These amendments *probe* the government's intentions as to the activity condition. They highlight that it is inimical to the character and culture of volunteering. Amendment 82 highlights that it disadvantages those who work long hours in their jobs (for example migrant domestic workers) and thus have difficulty in complying with the condition. Amendment 83 highlights the risk that certain activities may count while others will not, thus disadvantaging those who, for example, do important work for their trade unions. The amendments complement the first amendment, in assisting in making the case for the removal of the activity condition.

## BRIEFING

*'A writer uses abstract words because his thoughts are cloudy; the habit of using them clouds his thoughts still further; he may end up concealing his meaning not only from his readers but also from himself'*<sup>1</sup>

Clause 39 makes provision for the 'qualifying period' for citizenship to be reduced by two years, to the current periods, if a person performs 'prescribed activities' under what the government has called 'active citizenship' or 'earned citizenship'. Having to spend an extra two years as a probationary citizen means two more years insecurity and uncertainty. The government proposes to limit access to services to migrants:

*"Refugees and those granted humanitarian protection will continue to be entitled to all benefits and services, including access to Further Education at home student fee rates, subject to meeting the relevant requirements.*

[...]

***Probationary citizens will not therefore be entitled to access non-contributory benefits, social assistance, local authority housing or homelessness assistance.** Those probationary citizens who are working will continue to have access to benefits based on National Insurance contributions, as they did in the temporary residence stage, subject to them fulfilling the eligibility criteria. Limited exceptions to this general position will be where we are meeting our commitments under international agreements and international law."*<sup>2</sup>

Thus, the activity condition may entail, other than for refugees or those granted humanitarian protection, waiting two years before one's children can afford to go to university (paying home student rates) or before one can access health care. It is also two more years in which there is a risk of having to start the qualifying period all over again, for example because one has fallen foul of the provisions in Clause 37 by

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<sup>1</sup> *Fowler's Modern English Usage*, Second edition, revised by Sir Ernest Gowers, 1954, Oxford University Press, entry on abstractitis

<sup>2</sup> See Chapter 5 of *The Path to Citizenship: next steps in reforming the immigration system*, Government response to consultation, UK Border Agency July 2008

spending more than 90 days in any one year outside the UK, or by studying or otherwise having leave that breaks the qualifying period, or by failing to remain in 'continuous employment'.

### ***Why an activity condition?***

The UK Border Agency's current *Nationality Instructions* enjoin upon caseworkers to consider whether '*applicants have genuinely thrown in their lot with this country*'<sup>3</sup>. The Lord Goldsmith wrote in his review of citizenship *Citizenship: Our common bond*

*'On balance, the strong feeling of being British that many respondents expressed seemed to have arisen as a result of living here and participating in and contributing to British life. Some said they felt more British after acquiring citizenship, but most of the emotional attachment to Britain coincided with making decisions about a future life in Britain.'*<sup>4</sup>

People give a range of reasons of reasons for feeling that it is was the right time for them to become British. Research commissioned for the Lord Goldsmith's review summarised this as:

*While the research revealed a clear progression and steady path towards citizenship, there are points at which those with ILR decide that the time is right to apply for citizenship. The most significant of these tipping points was having children, partly because it was the start of building a future and required stability, but partly because they felt that their children were British-born so their parents should be British too.*

[...]

*respondents did tell us that it suddenly 'made sense' to become a British citizen when they realised that their life was here. One key trigger for encouraging respondents to apply for citizenship was returning from a holiday or trip abroad. Respondents told us that there was a mismatch between their sense of returning home to the UK (even if they had been visiting their country of birth) and being separated from the UK and other EU citizens at passport control. They felt British, they lived in Britain, they were coming home to Britain, but they were being forced to queue for longer, justify why they should be allowed into the country, and were generally treated 'like a foreigner'.*<sup>5</sup>

There is in both the *Nationality Instructions* and work for the Lord Goldsmith's review a notion of the path to citizenship starting with a voluntary impulse on the part of an individual that they have a close connection to the UK. The UK then exercises its discretion to decide whether indeed to naturalise the person.

Contrast the provisions of this Bill. If asked why they became British citizens many people who naturalise under the proposed provisions will say 'because I had to'. The

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<sup>3</sup> See paragraphs 18.1.7 and 34.1.6 of Chapters 18 and 34 respectively available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/nationalityinstructions/nichapter18/>

<sup>4</sup> Page 86

<sup>5</sup> *British Citizenship: Experience and Perceptions* Tom Levesley, 31 January 2008, available at [www.justice.gov.uk/docs/experience-perceptions.pdf](http://www.justice.gov.uk/docs/experience-perceptions.pdf)

risks of having to leave the UK, of being denied access to services<sup>6</sup> will make citizenship not a free and voluntary choice, but an unavoidable necessity.

Similarly with the activity condition and the notion behind it, best captured in the oxymoron ‘compulsory volunteering’.

***What are the prescribed activities and how will they be measured?***

The government first mooted the idea of ‘earned’ or ‘active’ citizenship a year ago its February 2008 consultation paper on the *Path To Citizenship*<sup>7</sup> and yet, a year on, there is still no clarity and no detail. The Explanatory Notes to the Bill offer no clue as to the content of the ‘activity condition’. The government’s *Memorandum* to the House of Lords Committee on Delegated Powers and Regulatory Reform says only

*“49. It is considered appropriate to set out these matters in regulations, rather than on the face of the primary legislation, because they will necessarily be detailed. It is also important to have the flexibility to make amendments where relevant without requiring primary legislation. The department may for example want to adjust the list of activities an applicant can complete to reduce their qualifying period for naturalisation, or adjust the groups of people who will automatically be treated as having carried out those activities. The department has established a design group with the voluntary sector and local government to advise on what the prescribed activities should be, the level of commitment needed, and how completion of the activities should be verified. The department will be monitoring the practical application of these matters with the third sector and other interested parties, and therefore believe a regulation-making power is the appropriate way to ensure that requirements can be updated in line with the operational realities.”*<sup>8</sup>

The Government response to the *Path to Citizenship* consultation<sup>9</sup> acknowledged the range of critical comments with which respondents had greeted the proposal, stating:

*“We accept there are considerable practical issues to resolve to ensure the proposal can operate effectively.”*<sup>10</sup>

Yet turn to the website of the Advisory Board on Naturalisation and Integration<sup>11</sup> and one finds a notice confirming that it completed its work in November 2008. The Board left no blueprint for active citizenship. Its *Final Report* states only:

***Earned Citizenship***

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<sup>6</sup> See Chapter 5 of *The Path to Citizenship: next steps in reforming the immigration system*, Government response to consultation, UK Border Agency July 2008

<sup>7</sup> *The Path to Citizenship: next steps in reforming the immigration system* UK Border Agency February 2008

<sup>8</sup> House of Lords Delegated Powers and Regulatory Reform Committee, Third Report of session 2008-2009 Appendix 1 Borders Immigration and Citizenship Bill HL [www.publications.parliament.uk/pa/ld200809/ldselect/lddelreg/29/2904.htm](http://www.publications.parliament.uk/pa/ld200809/ldselect/lddelreg/29/2904.htm)

<sup>9</sup> *The Path to Citizenship: next steps in reforming the immigration system*, Government response to consultation, Home Office July 2008. <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/pathtocitizenship/>

<sup>10</sup> Op cit at 2.1.1. The responses to the consultation can be found at [www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/pathtocitizenship/](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/pathtocitizenship/)

<sup>11</sup> [www.abni.org.uk](http://www.abni.org.uk)

- *The Government have announced proposals that would enable aspirant citizens to speed up their progress to naturalisation where they undertake ‘active citizenship’.*
- *We recommend that the range of eligible activities should be wide and the process of verification sufficiently robust, but not so cumbersome as to put off individuals from embarking on this path or organisations from providing hosting volunteering opportunities.*
- *We recommend that the implementation of these provisions is monitored in much the same way that ABNI has monitored the Language and Knowledge of Life arrangements.<sup>12</sup>*

The government has produced an impact assessment for the ‘earned citizenship’ proposals to accompany this bill.<sup>13</sup> This estimates the cost of the proposals at £3million for the first year, and three million per year thereafter. It notes among the risks, ‘*Risk of additional requirements on the third sector*’.

It is difficult to make sense of these figures because estimates for different parts of the new citizenship proposals are difficult to disaggregate when one reads the document, which goes on to estimate the ‘total annual cost of enforcement for these operations’ at £16 million per annum and the highest estimated net benefit/loss over 10 years as a loss of £29 million. It is unclear precisely to what activities these figures refer.

The document sets out ‘Key monetised costs’ of the proposals, in jargon that makes them not very easy to understand, as follows:

**“Key Monetised Costs**

*To UKBA*

- *Setup and Training: Costs of set-up training and familiarisation to implement the new policy are contained in the costs of Architecture.*
- *Additional case working costs: UKBA staff will need to conduct additional case working to include assessing whether and how applicants have demonstrated active citizenship.*

*To public or third sector*

- *Risk assessment: those undertaking active citizenship will need to be risk assessed (including Criminal Record Bureau checks in certain cases).*
- *Verification costs: costs to third sector staff subject to the detail of verifying that migrants have undertaken active citizenship.*

*To the economy*

- *Abstraction from work costs: potential costs of lost productive output where migrants perform active citizenship during work time.*

We assume that ‘abstraction from work costs’ means ‘cost of time off’. It sets out the ‘non-monetised costs and risks’:

<sup>12</sup> November 2008, Page 28, see [/www.abni.org.uk/docs/ABNI\\_Annual\\_Report%20Nov%2008.pdf](http://www.abni.org.uk/docs/ABNI_Annual_Report%20Nov%2008.pdf)

<sup>13</sup> UK Border Agency February 2009 Available at [www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/border-cit-imm-bill/supporting-documents/iaofearnedcitizenship?view=Binary](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/border-cit-imm-bill/supporting-documents/iaofearnedcitizenship?view=Binary)

*“Impact on active citizenship opportunities for those not seeking citizenship: risk that any increase in demand may reduce opportunities for other people in the UK.”*

It then sets out the assumptions on which statements these are based. These include an estimate that 4000 cases will need to be verified each year, that 50% of those volunteering will need to be Criminal Records Bureau (CRB) checked (remember that CRB checks only cover what you have done in the UK) and that 50% of people will need to take time off work to fulfil the requirements. It talks about the ‘volunteer hours’ of migrants, which seems to imply that time spent undertaking these activities must be counted. But nowhere does it offer any hint of how these figures have been arrived at, nor or what is the intended scheme.

The Equality Impact Assessment for this Bill<sup>14</sup> says of the ‘active citizenship’ proposals:

- *Stakeholders identified potential discriminatory impacts in relation to nationality, primarily on the grounds that the proposals create requirements for citizenship that apply to non-UK nationals but not to people born in the UK; or that they apply to some migrants but not others.*
- *Stakeholders also raised concerns that the ‘Active Citizenship’ proposal by which migrants who actively contribute to the local community can progress to citizenship could be discriminatory on grounds of disability and age.*
- *Stakeholders raised concerns over the impacts of these proposals specifically on those in need of international protection.*
- *Responses raised concerns over the impacts of those already here and on a path to citizenship.*

Nothing in the Equality Impact Assessment suggests that how to resolve these concerns is something that has been worked out. It says:

*“These issues are being taken forward and considered by a design group that involves representatives from the third sector.*

*[...]*

*Further consultation will be undertaken with voluntary organisations, local government and migrant groups to ensure the proposals are non-discriminatory.”*

These are statements of aspiration and process but provide no reassurance that, one year after the Government first published the proposals, there is any clarity on how these aspirations will be achieved nor on what these processes will yield. Search on google for details of the design group and you come up with the Admiral the Lord West’s speech on the second reading of this Bill. Search the words ‘design group’ on the UK Border Agency website and you come up with four references, none of which have anything to do with naturalisation. ILPA can only conclude that those who

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<sup>14</sup> UK Border Agency February 2009. Available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/border-cit-imm-bill/supporting-documents/equalityimpactassessment.pdf?view=Binary>



heard the Admiral the Lord West's speech at second reading are probably the best-informed in the UK about how the government intends to deliver active citizenship.

Peers are asked to probe whether they are being asked to approve the setting up of a costly bureaucracy for something that amounts to little more than obtaining letters in support of one's application for naturalisation.

***Which activities will count? – will you only be able to volunteer for organisations?***

There are many invaluable things that people do for those around them that are difficult to measure. Popping in to see whether a neighbour is all right or needs any shopping; clearing the pavement outside one's house in the snow; babysitting; feeding a person's cat or watering their garden while they are on holiday. These are invaluable and link people into the neighbourhood where they live. They may bring with them fewer of the benefits to the individual that the government associates with more formal volunteering:

*'As a volunteer you will be giving your time to help charities and community groups improve lives, but volunteering can provide you with many benefits including:*

- *the chance to have fun doing something you've never tried before*
- *increased confidence*
- *a sense of satisfaction and achievement*
- *the opportunity to make new friends and contacts with diverse backgrounds and experiences*
- *increased job and career prospects and new skills - over 70 per cent of employers would hire a candidate with volunteering experience over someone who has never volunteered'*<sup>15</sup>

The prospect of asking neighbours to attest to such activities and of the UK Border Agency denying the 'credibility' of those letters is not an edifying one. The prospect that those helped will feel that they are only being helped so that the person can become British, or that the person helping will fear that their neighbour thinks like this, risks souring supportive relationships.

***Will you only be able to volunteer for certain organisations? – including the question of trade union activities***

ILPA has watched the UK Border Agency struggle over the last year or so to build its register of licensed sponsors who can bring in a worker from outside the European Economic Area under Tier 2 of the Points-Based System and indeed members have spent many hundreds, if not thousands of hours, unpaid, provides comments and criticisms to the Agency on the system, assistance for which the Agency has acknowledged its gratitude. It took a vast amount of money and a huge amount of resources, diverted in some cases, in ILPA's experience, away from maintaining service standards in other parts of the Agency to build a register which on 5 January 2009 the government announced stood at 4,875 sponsors.<sup>16</sup> The register of sponsors

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<sup>15</sup> Direct Gov website, becoming a volunteer, see [www.direct.gov.uk/en/HomeAndCommunity/Gettinginvolvedinyourcommunity/Volunteering/DG\\_10029484](http://www.direct.gov.uk/en/HomeAndCommunity/Gettinginvolvedinyourcommunity/Volunteering/DG_10029484)

<sup>16</sup> UK Border Agency news release [www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/newpointssystem](http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/newpointssystem)

opened at the end of February 2008 and opened to all on 28 July 2008<sup>17</sup>. Nearly a year to register under 5000 employers.

A register of educational institutions at which overseas students can apply to come to the UK to study, has also been created. The government has spent a lot on both these projects. Employers and educational institutions have also spent huge amounts and devoted many hours to bringing their systems into line with the UK Border Agency's requirements and to applying to register (the application form for employer sponsors is 35 pages, with 58 questions and these figures provide only a glimpse of the work involved in an application, for which a whole range of supporting documentation must be provided. The very brave can view the form and attempt to negotiate the pages on the UK Border Agency website designed to make the system comprehensible to sponsors.<sup>18</sup> Many employers have needed to draw in specialist advice and help to complete an application. The jury is out on whether the UK Border Agency will be able to resource monitoring and policing of the scheme at a level that makes it meaningful. Nor is it easy to ascertain what the total costs of setting up these systems has been.

Put those figures in context. According to the Charity Commission,

*'There are around 190,000 registered charities, and perhaps as many again smaller unregistered ones.'*<sup>19</sup>

There are many more not for profit organisations and informal groups working on a voluntary basis. According to the Home Office there were 160,980 applications for British Citizenship in 2007, the last year for which full figures are available.<sup>20</sup> There were 164,635 grants of British Citizenship in that year and 15,360 people were refused, withdrew their applications or were found to be British (a grant does not necessarily fall in the same year as an application, hence the difference in figures). Again one questions the source of the UK Border Agency estimate set out in the Impact Assessment for this Bill that 4,000 verification visits will be needed.

Will all charities and not for profit organisations and groups have to be licensed if they want to be able to attest that a person has undertaken 'prescribed activities'? How much time effort and money will they need to spend to obtain a licence? What is the incentive for them, if at the end of the day they end up with 'volunteers' motivated by necessity and compulsion? What will be the effect upon them of the spot checks from the UK Border Agency to see what they are doing? Will their attestations as to the unpaid work a migrant has done be questioned or doubted? (e.g. 'Oh well, of course they'll claim she has done the hours – they are a migrant community organisation. They just want to help her?') Will different organisations be treated differently? Will a refugee community organisation working to direct attention to a long-forgotten or unpopular conflict be able to give an attestation? What of a migrant organisation making the case against particular immigration rules?

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<sup>17</sup> UK Border Agency news release

[www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2008/sponsorregisteropentoall](http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2008/sponsorregisteropentoall)

<sup>18</sup> Start at

[www.ukba.homeoffice.gov.uk/employers/points/whatisthepointsbasedsystem/employingmigrants/](http://www.ukba.homeoffice.gov.uk/employers/points/whatisthepointsbasedsystem/employingmigrants/)

- good luck.

<sup>19</sup> [www.charitycommission.gov.uk/registration/think.asp](http://www.charitycommission.gov.uk/registration/think.asp) accessed 21 February 2009.

<sup>20</sup> Home Office Statistical Bulletin 05/2008 see

<http://www.homeoffice.gov.uk/rds/pdfs08/hosb0508.pdf>



The amendment laid by the Lord Lea of Cornhill to include specific reference to trade union activities highlights the question of whether unpaid trade union activities will count toward the activity condition. Will some types of volunteering be deemed 'worthy' and others 'unworthy' or 'political'? Will a person organising for a trade union be treated in the same way as one supporting employees bringing grievances?

What if only a couple of organisations in a small town are licensed and find themselves overwhelmed with applications from volunteers, all of which they have to sort through and address in accordance with their volunteer policies, respecting equal opportunity for all? What if they have to devote hours not to the work they were set up to do, but to people pleading to be taken on as volunteers? If one works with children they may require CRB checks, but these only check UK records so substantial effort needs to be invested in making equivalent checks on time spent overseas. Andrea Eagle MP, then Parliamentary Under-Secretary of State for the Home Department, speaking during debates on what became the Nationality Immigration and Asylum Act 2002, referred to

*...the 1997 European convention on nationality, which the UK was instrumental in negotiating and we wish to ratify and sign.*<sup>21</sup>

The UK has neither signed nor ratified the Convention but it is worth looking at the provisions that the UK was 'instrumental in negotiating', in particular:

**Article 5(1)**

*The rules of a State Party on nationality shall not contain distinctions or include Any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin.*

People with disabilities often do huge amounts of volunteering, but may be restricted in what they can do by the physical limitations of the premises of small, often under-funded, voluntary organisations. There is a risk of discrimination here. Dependant relatives who have joined family members in the UK, often to be near them in their final years, may face similar difficulties. In particular, among the population of refugees and those given humanitarian protection, there will be those still coping with the physical and psychological consequences of torture and ill-treatment. Many will have been volunteer activists in their own countries and have informed views on what volunteering they can sensibly do until and unless restored to better health.

The idea of a licensed, monitored system looks unattractive, but what of the alternative? What of the risks that people desperate for an attestation will be made to pay for it, or be exploited? Is it fanciful to suppose that a person could set up what purports to be a voluntary organisation and then have migrants working, unpaid in accordance with this clause, in a sweat-shop at the back? Viewed against this backdrop, 4,000 assessment visits looks tiny indeed.

If the system is policed it risks doing more harm than good. If it is not policed, it risks doing more harm than good. It risks doing more harm than good.

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<sup>21</sup> House of Commons Committee Stage, Nationality Immigration and Asylum Bill, 30 April 2002, cols 55 – 61

### ***When must the activity condition be fulfilled?***

In the Government Response to the Path to Citizenship consultation a number of flow-charts were set out. The flow chart at page 14 of the document<sup>22</sup> appears to suggest that the UK Border Agency anticipates that Ministers will prescribe that people must complete the activity condition during the probationary citizenship period, rather than during their preceding period of temporary leave. Peers are urged to seek clarification on this point. There seems no reason for this limitation, unless it is to try to give some content to the notion of ‘probationary citizenship’. The government’s proposal is that people should have temporary leave until become British or gain Permanent Residence as defined in the Bill. Under Clause 37, it is proposed that a worker could have to be in continuous employment until s/he becomes a British citizen or Permanent Resident. Under Clause 38, it is proposed that if a person naturalises on the basis of a relationship, that relationship must subsist until the person becomes a British Citizen or permanent resident. The more closely one scrutinises these proposals, the less clear it is what permanent residence leave is supposed to add to the equation. A two-stage process has been inflated into a three stage one, with no obvious effect save that, given that a ‘Probationary Citizen’ is neither a Citizen nor on probation, it is likely to confuse both Probationary Citizens and those who come into contact with them.

### ***The questions of ‘otherwise than for payment’ –including trade union activities***

ILPA assumes, and Ministers might usefully be questioned on this, that the reason for insisting that the activity is unpaid is to emphasise its voluntary character. But it has no voluntary character. People, whether British citizens or not, may have mixed motives for volunteering. The government describes these as:

*‘As a volunteer you will be giving your time to help charities and community groups improve lives, but volunteering can provide you with many benefits including:*

- *the chance to have fun doing something you've never tried before*
- *increased confidence*
- *a sense of satisfaction and achievement*
- *the opportunity to make new friends and contacts with diverse backgrounds and experiences*
- *increased job and career prospects and new skills - over 70 per cent of employers would hire a candidate with volunteering experience over someone who has never volunteered*<sup>23</sup>

These are very different from being necessary if a person wants to speed up their path to citizenship. When organisations interview prospective volunteers, they may ask what motivates the person. They do not expect answers such as ‘So that I can afford to send my child to university’, ‘So that if I fall sick I will be able to obtain treatment’.

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<sup>23</sup> Direct Gov website, becoming a volunteer, see [www.direct.gov.uk/en/HomeAndCommunity/Gettinginvolvedinyourcommunity/Volunteering/DG\\_10029484](http://www.direct.gov.uk/en/HomeAndCommunity/Gettinginvolvedinyourcommunity/Volunteering/DG_10029484)

The British Nationality Act 1981 makes provision for those born outside the UK to British parents in ‘Crown Service’ or other designated service to be born British<sup>24</sup>. It makes provision for Crown Service overseas to count toward the qualifying period for citizenship<sup>25</sup>. Crown Service, and designated service are paid, some forms of such service are very well paid. Examples of designated service are service in an international organisation of which the UK is a member, service under the British Tourist Authority the Particle Physics and Astronomy Research Council, or in the case of the British Council ‘Service under the British Council for which the remuneration is paid wholly by that Council.’<sup>26</sup> Yet people could be working in the UK offices of those very same organisations and this would not count toward the activity condition.

Similarly with service in UK public services, or ironically, a paid post in a charity or other organisation of a voluntary character. Why not? What is wrong with paid work?

Some people work very long hours and work extremely hard. Migrant domestic workers are one example. This year, ILPA representatives have explained to groups of migrant domestic workers the new proposals for citizenship. Such meetings take place on a Sunday, because this is usually the only day they have free. They have expressed consternation and resignation in equal measure when faced with the activity condition. It simply is not something that is likely to be able form part of their route to citizenship. Many of them will have to take the longer path.

Migrant workers need to keep their jobs because very often their stay in the UK depends on it. Indeed, under Clause 37 of this bill they will be required to remain in ‘continuous employment’ up to the moment that they become British Citizens. The TUC Commission on Vulnerable Employment, for its authoritative report *Hard Work; Hidden Lives*<sup>27</sup> found that being a migrant in and of itself creates vulnerability in the labour market because of uncertainty about stay and in many cases ties to a particular employer or type of work, even before one considers the situation of those with limited knowledge of their rights, limited language ad networks or who have been specifically targeted by those seeking to exploit them. Research for the Commission found:

*‘There are high proportions of migrants working non-standard hours...smaller datasets suggest that migrants are anxious about hours and insecurity – that is, there are some grounds for believing that it is by no means always a matter of “choice”, but of excessive hours and underemployment’*<sup>28</sup>

Trade union activities may be paid or unpaid, but in both cases these are activities contributing to the greater good of the workforce and to support fellow-workers. Trade union representatives will usually be organising in the workplace and contracts

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<sup>24</sup> British Nationality Act 1981, s 2 Acquisition by descent

<sup>25</sup> British Nationality Act 1981, s 6 and Schedule 1 paragraph 1.

<sup>26</sup> See The British Citizenship (Designated Service) Order 2006, SI 2006/1390, as amended.

<sup>27</sup> TCU 7 May 2008 see [www.vulnerableworkers.org.uk/files/CoVE\\_full\\_report.pdf](http://www.vulnerableworkers.org.uk/files/CoVE_full_report.pdf)

<sup>28</sup> *Migrant Workers And Vulnerable Employment: A Review Of Existing Data, Report for TUC Commission On Vulnerable Employment* by Jayaweera, H. and B. Anderson, 2008  
[www.vulnerableworkers.org.uk/cove-evidence-gathering/cove-research/](http://www.vulnerableworkers.org.uk/cove-evidence-gathering/cove-research/)

of employment are likely to make provision for time off for trade union activities. Given this, will they be treated as activities other than for payment? Those undertaken such activities are likely to be very involved in the community in and around their workplace and may participate in activities in the wider community in this capacity.

At the highly paid end of the labour market ILPA members represent people who work long hours in city jobs. They pay large amounts to the UK in taxes and many donate their money, rather than their time, to the charities they support. For example C paid over a quarter of a million in taxes in the UK last year. He works extremely long hours and his work involves a lot of overseas travel away from his family in the UK with early starts, late nights and weekend work. His company encourages charity work and he had signed up for voluntary work, but his boss asked him to cancel because of work commitments. C says that he feels that it is a real kick in the teeth that he would have a longer route to citizenship if he did not do voluntary work, pointing out that he would have liked to but have done such things, is pressure of work that meant that he could not give the commitment that voluntary work requires. Most voluntary organisations are likely to be just as pleased to receive donations that enable them to hire skilled paid staff, including volunteer coordinators, as they are to have support in kind, particularly if that support is not freely given.

*For further information, please get in touch with Steve Symonds, [Steve.Symonds@ilpa.org.uk](mailto:Steve.Symonds@ilpa.org.uk) or Alison Harvey, [Alison.Harvey@ilpa.org.uk](mailto:Alison.Harvey@ilpa.org.uk), 0207 251 8383.*