

Submission to the “A Fairer Pathway to Settlement” Consultation Contribution and Legitimate Expectation Perspectives from Hong Kong BN(O)

Be Well HKers CIC is a non-profit, community-led organisation based in Sutton that supports the wellbeing, integration, and skills development of Hong Kong volunteers in the UK. We deliver upskilling workshops that strengthen mental health and resilience, benefiting individuals who care for others and contribute actively to the UK society, which we now call home.

We submit this petition in response to the Home Office’s consultation on Earned Settlement, insofar as it affects the Hong Kong BN(O) 5+1 route. Our submission reflects the lived experiences and stories of BN(O) visa holders and volunteers, and raises serious concerns regarding fairness, legality, and trust.

1. The BN(O) Route Is a Constitutional and Humanitarian Commitment

The BN(O) Scheme was established to honour the United Kingdom’s constitutional, historical, and moral obligations under the Sino–British Joint Declaration, following the deterioration of rights and freedoms in Hong Kong. It was not designed as an economic migration route, but as a humanitarian and protection-based pathway to settlement.

During the 17 November 2025 parliamentary debate, Home Secretary Shabana Mahmood affirmed: “We are committed to, and have always supported, the repatriation of Hongkongers.”¹ The UK Government repeatedly and unequivocally assured BN(O) migrants that the route would provide a five-year pathway to settlement, with no income requirement and English language proficiency at B1 level. These assurances created legitimate expectations. Families relied on them in good faith, uprooting their lives, leaving careers, selling homes, relocating children, and rebuilding everything under tough circumstances.

2. Reliance, Good Character, and Contribution

BN(O) migrants acted lawfully, responsibly, and transparently. They complied fully with visa conditions and relocated in reliance on clear government commitments. These actions themselves demonstrate good character and trust in the UK’s institutions.

Many faced unavoidable barriers to returning immediately to their original professions due to continuous education, re-qualification requirements, caring responsibilities, language adjustment, or trauma linked to political persecution. This has not resulted in disengagement. On the contrary, volunteering is of paramount importance to contribution.

Hong Kongers have provided sustained and tangible support across:

- Community and charity services
- Mutual aid and wellbeing initiatives
- Voter registration and civic engagement
- Support for vulnerable groups and local residents

These contributions are rooted in kindness, responsibility, and civic duty, and reflect strong integration into the UK society.

3. Retrospective Income Thresholds Are Unfair and Harmful

The proposed £12,570 income threshold risks redefining “character” retrospectively through earnings alone. This approach is deeply flawed. It ignores:

- Household-based finances and savings
- Caring responsibilities
- Voluntary and social service
- Entrepreneurship and retraining pathways

For BN(O) migrants, delays to settlement have serious financial consequences, including continued inability to access Hong Kong MPF retirement savings, exposure to overseas university fees for children, and prolonged uncertainty. Active efforts to sustain oneself, retrain, care for family members, or contribute through volunteering should be recognised. Contribution must not be reduced to income alone.

4. English Language Requirements and Integration

Integration must be assessed realistically and non-retrospectively. Many BN(O) visa holders have already met the English requirements in force at the time of entry, including passing the B1 test, and planned their settlement accordingly.

Raising the requirement to B2 would unfairly penalise those who acted in good faith. English proficiency is not a proxy for integration. Many of our volunteers are fully integrated through work progression, volunteering, and sustained community participation.

This is particularly relevant for:

- Older migrants (often aged 45–64)
- Family carers and stay-at-home parents
- Low-paid or part-time workers
- Volunteers who have completed council-provided ESOL courses

By observations, they manage daily life, contribute locally, and uphold UK values, even where progressing beyond B1 or B2 is not realistic. High English (such as C1) may reasonably be offered as a voluntary incentive, but must not become a barrier to settlement.

5. Legitimate Expectation and Legal Certainty

As set out in the legal analysis by Professor Johannes Chan, retrospective changes undermine trust and mirror policy shifts previously found unlawful, notably in *R (HSMP Forum Ltd) v Secretary of State for the Home Department*.²

Clear, repeated government assurances created a legitimate expectation that BN(O) migrants would be assessed under the rules in place at entry. Altering those rules at the final stage of settlement is

neither proportionate nor justified and risks serious legal challenge. Integration criteria must therefore be clear and fixed from entry, recognising lived contribution over time rather than shifting benchmarks introduced late in the process.

6. Groups That Should Be Exempt from the Income Requirement

We urge the Home Office to exempt the following groups from the £12,570 earnings requirement:

1. All BN(O) visa holders and their dependants
2. Individuals undertaking sustained volunteering or social service prior to career relaunch
3. Family carers, including stay-at-home parents and adult carers
4. Young adults in full-time education (school, college, or university)
5. Post-1997 Hongkongers on asylum or protection routes due to political persecution

7. Recognising Community Contribution

Providing evidence of community contribution may present challenges, as volunteering varies widely in formality and leads organisers. Some activities are well documented; others are informal and held by unregistered small groups, but no less meaningful and valuable.

To ensure fairness, the Home Office could provide guidance on acceptable evidence, such as:

- Letters from charities or CICs
- Timesheets or attendance records
- References from community leaders

Recognising community contribution would have a strongly positive impact, encouraging civic participation, strengthening social cohesion, and reinforcing integration without imposing additional burdens.

8. Children, Families, and Humanitarian Considerations

Dependent children must not be required to earn a settlement independently. They have no control over migration decisions or household income. Requiring them to meet individual criteria would undermine family unity and child welfare.

Particular consideration must also be given to Hong Kong nationals on asylum or protection routes who fled severe political persecution. Many can never safely return to Hong Kong. Prolonged or retrospective settlement barriers compound trauma, insecurity, and humanitarian risk, and undermine the UK's protection commitments.

The BN(O) Scheme is humanitarian in nature. Settlement arrangements must preserve the original pathway for families, recognising household-level contribution, caregiving, and stability.

Conclusion

As former Hong Kong Governor, Lord Chris Patten cautioned on 31 January, *"we must not betray Hong Kong residents who have a right to come to Britain."*³ Upholding the original BN(O) settlement

pathway is essential to maintaining the UK's moral responsibility, international credibility, and commitment to fairness and the rule of law.

We respectfully urge the Home Office to:

- Fully exempt BN(O) visa holders already in the UK from new income and enhanced English language requirements
- Apply any new settlement rules only prospectively
- Recognise contribution in its fullest sense, including volunteering, caregiving, and sustained community engagement
- Uphold the UK's constitutional commitments, public trust, and legal certainty

The UK has long acknowledged a historic and moral responsibility toward the people of Hong Kong. Settlement policy must reflect that responsibility by honouring promises made, safeguarding family unity, and recognising lived contribution over time rather than retrospective benchmarks.

Be Well HKers CIC submits this petition in good faith, on behalf of a community that has shown resilience, responsibility, and unwavering commitment to the society it now calls home. Tan Sitong's poem, written in the face of injustice, resonates with our community's determination: "I brandish my blade and laugh at the sky; whether staying or leaving, my loyalty and righteousness stand firm."

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12 February 2026

Footnotes:

1. Shabana Mahmood, *House of Commons Debates, Asylum Policy*, 17 November 2025 <https://hansard.parliament.uk/commons/2025-11-17/debates/A9C59B8C-EB0D-4BA7-B8D3-F0B0A53A2DB0/AsylumPolicy>
2. Johannes Chan, *Earned Settlement and the Hong Kong BN(O) 5+1 Route: A Legal Analysis*, *Green Bean Media, Be Seen, Be Together* https://www.patreon.com/posts/groundbreaking-o-146676281?utm_source=chatgpt.com
3. Chris Patten, *The Telegraph*, author profile <https://www.telegraph.co.uk/authors/c/cf-cj/chris-patten/>
4. Tan Sitong, *"Inscribed on the Prison Wall"* (1898, Qing Dynasty)