

APPG Migration inquiry into the impact of the EU Settlement Scheme on EU citizens in the UK

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All-Party Parliamentary
Group on Migration

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Foreword

By David Simmonds MP CBE and Olivia Blake MP, Co-Chairs APPG Migration

With 6.9 million completed applications, the EU Settlement Scheme (EUSS) is the biggest immigration regularisation system ever implemented in British history. It was set up to enable the UK to honour our responsibilities to EU Citizens and their family members after we left the EU.

From the outset, the EUSS has held the presumption of 'saying yes' rather than saying no, and for many, the digital application process has been simple and straightforward.

There have, however, been concerns from the start about the ability of vulnerable groups to engage with the scheme - often linked to digital exclusion, English language capability and access to suitable evidence to prove their time living in the UK. There has been a long running engagement between civil society and Government regarding these specific challenges.

Although the deadline to apply to the scheme in June 2021 has passed, the implementation of the EUSS is not complete. 188,170 applications remain outstanding and there will be an unknown number of eligible people who have not yet applied to the scheme. In addition, over 2 million people hold pre-settled status - meaning that they will need to make a new application to achieve settled status or risk becoming undocumented.

As members of the All-Party Parliamentary Group on Migration, we have retained a strong interest in the progress of the EUSS and the experiences of those applying to the scheme. As MPs, we have also supported constituents engaging with the EU Settlement Scheme since 2019. A year on from the application deadline, we wanted to find out about the current experience of the scheme and how cases we see in our constituency surgeries are reflected in national trends. We asked RAMP, as our secretariat, for an update on emerging trends, issues of concern and recommended actions.

A survey of over 30 organisations across the UK, providing advice to EUSS applicants was conducted. Challenges were identified and, in consultation with experts working in this field, a number of recommendations have been formulated. We hope that this report will be a helpful tool for all Parliamentarians interested in this issue so that we can work together to ensure that EU Citizens and their family members are able to continue to fully contribute to life in the UK - working, renting and accessing their rights and entitlements.

We want to express thanks to the advisory group who have contributed their expertise, professional knowledge and guidance to this inquiry. Thank you also to the organisations who completed the survey providing the data for this inquiry. We acknowledge and appreciate their time amidst busy and demanding schedules. We also appreciate the financial support provided by Trust for London and the Paul Hamlyn Foundation which enabled this inquiry to be undertaken.

Executive Summary

The EU Settlement Scheme opened in 2019 and the deadline for applications was 30th June 2021. As this report discusses, the process for many is still ongoing. Those with pre-settled status are required to re-apply for settled status; there remain 188,170 outstanding applications; and there are individuals yet to make an initial application. It therefore remains important to continue to monitor how the scheme is operating.

A full assessment of the success of the scheme will only be possible in years to come. While for many people the application process was straightforward and speedy, improvements have been made to the scheme as a result of civil society campaigns and engagement between them and the Government. This includes removing the proposed application fee and providing funding to advice organisations across the UK to support vulnerable individuals - including those who are digitally excluded, have limited English language capability, children in care and those homeless or with insecure accommodation. It will be important that this support remains available as further applications are required.

This Inquiry was established in order to;

1. Collect evidence from a range of service delivery, community and legal support organisations about the specific problems that EU citizens in the UK are facing since the EUSS deadline passed.
2. Hear their suggestions for changes in policy and practice by the Home Office and other actors that would help to tackle these problems
3. Write a report which summarises this evidence and sets out a draft set of policy recommendations

The main challenges identified centre around delays in processing applications; using the digital status; and specific needs for support in making an application - whether that be a late initial application or upgrading from pre-settled status to settled status. These challenges impact both the ability of individuals to live their lives and the capacity of local authorities and the voluntary sector who have to support individuals unable to access rental, welfare benefits or employment.

- **Outstanding applications;** 188,170 applications were outstanding as of September 2022 (both in-time and late applications). Organisations described challenges around individuals accessing services, housing and employment due to complex rules around entitlements during each stage of the EUSS process.
- **Converting from pre-settled to settled status;** As of 30 September 2022, 2,677,190 people held pre-settled status. Over the next five years, they will need to make a further application for settled status before their pre-settled status expires. A key challenge that emerged from survey responses was the lack of clarity about what will happen to those who need to make a new EUSS application - particularly those who then fail to do so.
- **Proving digital status:** Organisations surveyed are regularly required to assist people to access and update their digital status. Inability to access status digitally is causing loss of employment, housing and benefits.
- **Yet to apply;** There are bound to be some people (number unknown) who are in scope of the EU-UK Withdrawal Agreement but have not yet applied for EUSS status.

It is essential that these challenges with the current scheme are addressed in order to ensure that those eligible can easily prove their status and rights in the UK, so that they can fully participate in their communities and UK society. At a time of labour shortages, it is important that everyone who is able to work does so. People should not be sitting in limbo due to Home Office backlogs, but should have clarity over their status and rights. Such a lack of individual autonomy can lead to particularly vulnerable people being at risk of exploitation.

The UK Government's compliance with the Withdrawal Agreement is monitored by the Independent Monitoring Authority (IMA) and the EUSS is a vital component in how EU citizens are treated post-Brexit. The IMA brought a successful court case against the Home Office regarding the position of EU citizens who fail to apply for settled status before the expiry of their pre-settled status. The Home Office is currently considering how to respond, including whether to appeal the court's decision. The final outcome may impact a small number of recommendations relating to that transition period, however in the meantime this report outlines a number of issues that can be addressed immediately. What is clear is that stakeholders need to be mindful that the effectiveness of the EUSS operation does play into the ongoing post-Brexit diplomatic realignment between the UK and the EU.

It is also important to recognise the ways in which the successes and challenges of the EUSS will influence future immigration policy and practice. We hope that the findings of this inquiry are therefore helpful beyond their application to EU citizens and their families.

Key Recommendations

Based on what we heard from advice organisations, and in consultation with the Inquiry advisory group, this report makes a number of recommendations about actions that could be taken to better support people with the EUSS. A full list of recommendations can be found from pages 8-11 but the **key recommendations** are as follows;

Home Office-wide reform

- Commit to a review of the progress of immigration applications currently in backlog across the Home Office.

Pre-Settled to Settled Status Transition

- Allow those who do not meet the residency requirement for settled status to be granted a further period of pre-settled status.
- Automatically grant settled status to those with pre-settled status after five years have passed.

Proving Status

- Issue physical proof of status which will be a safety net for vulnerable people.

Working across Government Departments

- Share best practice across Government Departments in their engagement with EUSS applicants.

Upholding citizens rights in the wider immigration policy landscape

- Implement a review of the impact of the EUSS on EU citizens in the UK and their ability to continue their lives here as set out in the Withdrawal Agreement. Consider how these findings may impact and inform current and future immigration policy.

External Support provision

- Ensure formalised escalation routes that frontline organisations and community caseworkers can access to reach senior Home Office decision-makers for complex cases.

The EU Settlement Scheme

The EU Settlement Scheme was set up so that EU / European Economic Area (EEA), Swiss citizens and their family members could retain their existing rights to continue living, working and studying in the UK after the UK left the European Union. The Scheme opened in 2019 and closed to applicants on 30th June 2021. Rt Hon Sajid Javid MP, who was the Home Secretary at the time of its launch, emphasised that the process would work on the basis of the presumption of granting status:

“Throughout, we will be looking to grant, not for reasons to refuse, and caseworkers will be able to exercise discretion in favour of applicants where appropriate, to minimise administrative burdens”.

(Rt. Hon. Sajid Javid MP, Home Secretary, 21st June 2018)¹

The EUSS application is an online process and the Government provided funding for organisations assisting vulnerable people to make an application.

If an individual can prove that they have lived in the UK for five years or more, they are granted ‘settled status’. This gives them the right to remain in the UK with no time limit, with the right to work, access public funds and travel in and out of the UK.

If an individual can prove they have been in the UK for less than 5 years, they are granted ‘pre-settled status’ which gives them the right to remain in the UK for up to 5 years. In order to be eligible to claim access to public funds in the UK, the individuals must continue to show that they are exercising a ‘qualifying right to reside’ - for example as a worker, self-employed or family member of an EEA national worker. When someone with pre-settled status has been in the UK for five years they can apply for settled status. If they do not successfully reapply for settled status in time, they will lose their rights to live, work and access services in the UK.

There are requirements to not spend lengths of time outside of the UK in order to retain this status - both pre-settled and settled - and there is specific guidance and policy relating to extended absences including due to the impact of the Covid pandemic.

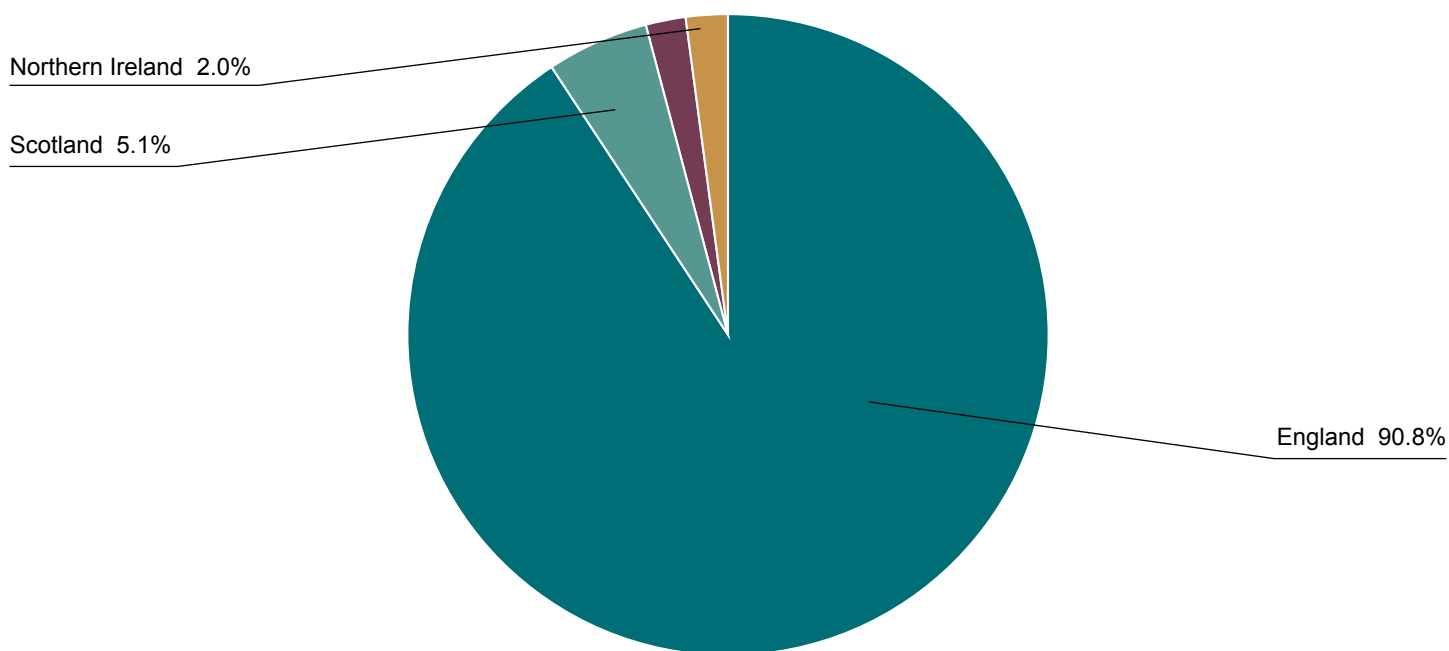
Once applicants receive a Certificate of Application (COA) following receipt of their EUSS application, they have rights in the UK and the COA can be provided to employers and landlords who are required to check the rights of the individuals to work and rent in the UK.

¹ Home Office (June 2018) [“EU Settlement Scheme: Statement of Intent”](#)

Current Data

The EU Settlement Scheme has had 6.9 million applications as of September 2022, with 89% received in England, 5% in Scotland, 2% in Wales and 2% in Northern Ireland².

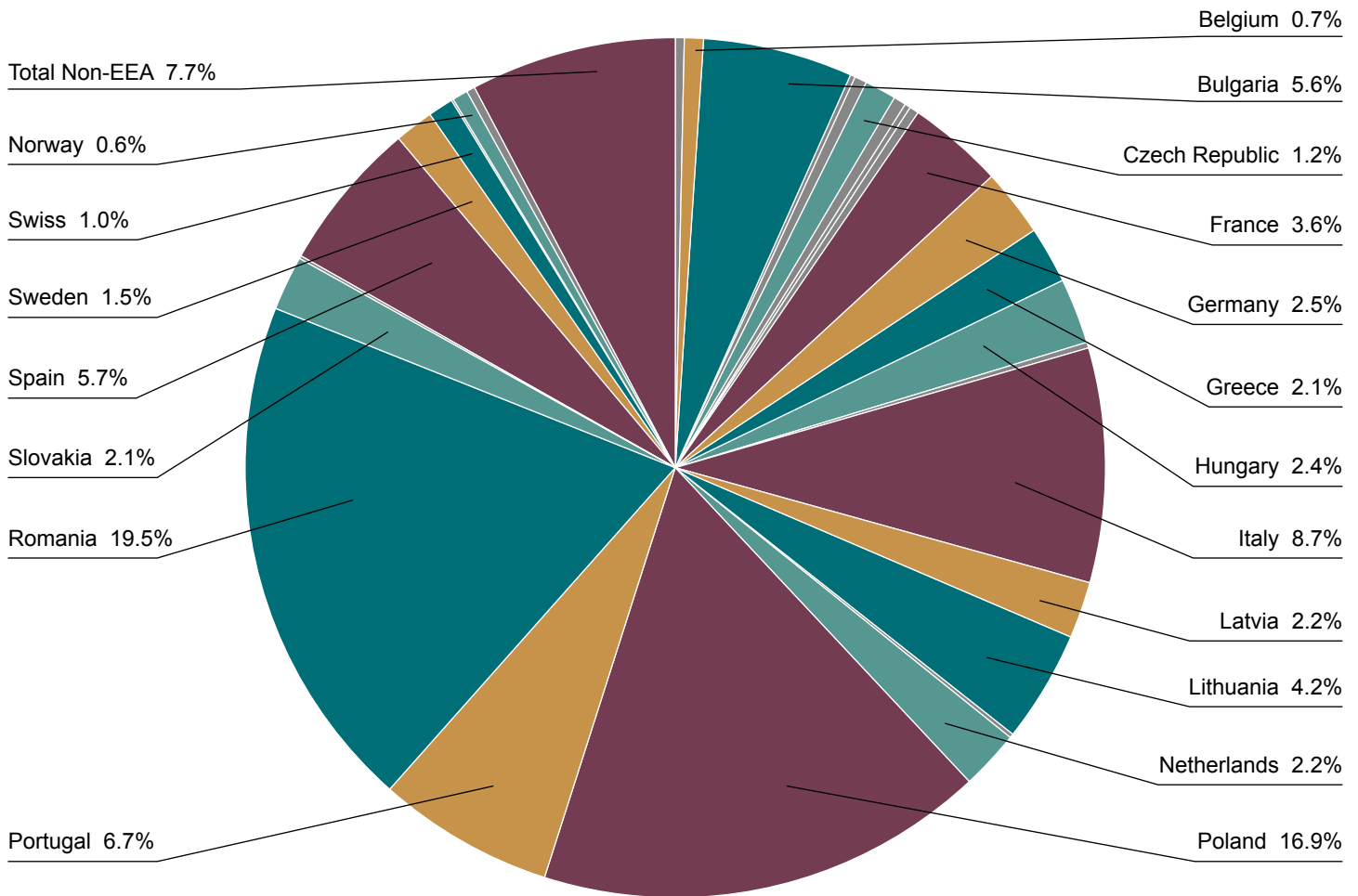
EUSS Applications in the UK to September 2022



The highest number of applications were from Romanian, Polish and Italian nationals. 8% of the applications were from non-EEA nationals with the highest number of these from India, Pakistan and Brazil.

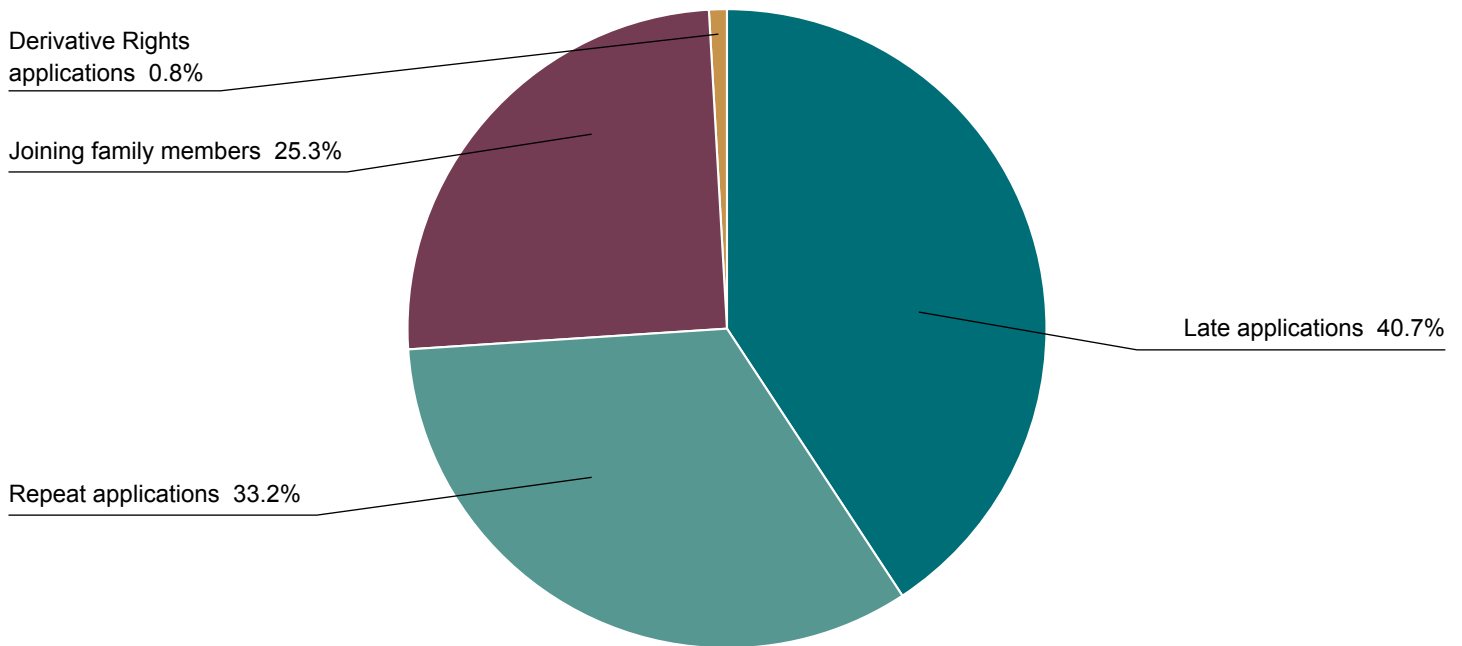
² Home Office (September 2022) “EU Settlement Scheme quarterly statistics, September 2022”

EUSS Applications by nationality to September 2022



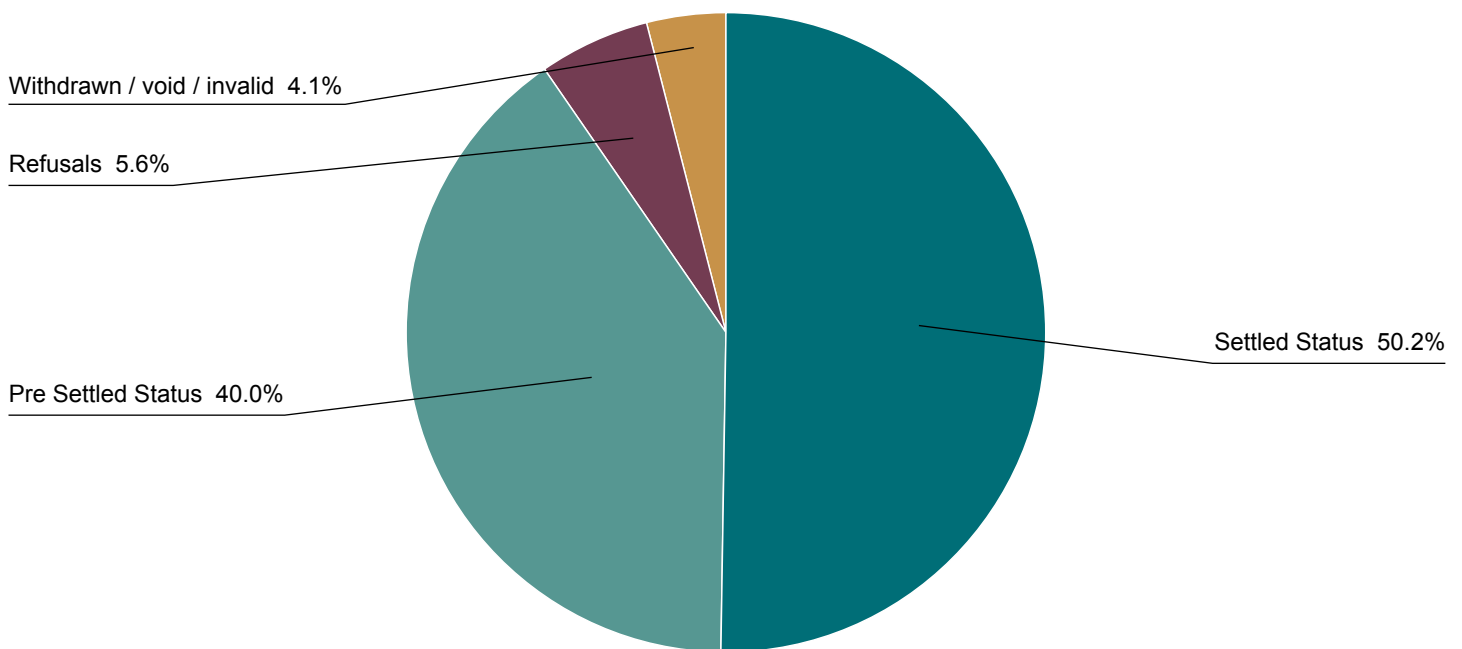
Since the EUSS deadline of 30th June 2021 until 30th September 2022, there have been 822,640 applications. 334,990 were late applications, 273,330 were repeat applications (including those moving from pre-settled to settled status) and the remainder were from joining family members and derivative rights applications.

Type of EUSS application 30th June 2021 - 30th September 2022



The number of resolved applications up to 30 September 2022 was 6,686,530 which indicates that 188,170 applications remained outstanding as of the end of September 2022.

Outcome of EUSS application to 30th September 2022



The Government does not know the number of individuals who are within the scope of the EU-UK Withdrawal Agreement but have not applied for EUSS status.

The Inquiry's Research Methods

This report is based on the 33 responses to a survey conducted in June / July 2022 from organisations advising and supporting individuals at a range of stages within the EUSS application and decision-making process. In total, the organisations surveyed have 2512 EUSS clients per month who they advise online, in person or by phone. Some organisations dealt with the EUSS issues themselves and others referred onwards to more specialist organisations.

Organisations surveyed were based across the UK, including in Wales, Scotland, Northern Ireland. Within England this included London as well as other major cities and more rural counties such as Norfolk and Suffolk.

Polish, Romanian and Czech were the most common nationalities advised by these organisations but a wide range of European nationals were cited, including a significant Roma cohort and non-EU nationals who were family members of EU citizens.

Current challenges with the EUSS

The survey highlighted the most common challenges that are currently faced by their clients. These can be grouped into three categories;

1. Outstanding EUSS applications

Pending applications for EUSS, both made in time before 30th June 2021 and late, was the most common problem for which people asked support organisations for help.

Organisations reported that because individuals did not have an EUSS outcome, they were experiencing a variety of challenges in their ability to access services and benefits. This included ability to travel, access public funds, health care, housing and work opportunities. Delays in the issuing of a Certificate of Application (COA) were an ongoing issue and impacted the ability of applicants to access services and benefits. However it was also reported that increasingly for those that had a COA, employers, landlords, and education providers run out of patience checking COAs, and simply reject people with pending applications.

It was reported that because the rules around entitlements are complex and vary at each stage of the EUSS process, other professionals, statutory bodies including the DWP, social workers, landlords and employers did not always know what rights individuals in the EUSS process were entitled to access. Advisors were often required to intervene with regard to incorrect decisions on entitlements made by other agencies.

Stress over uncertainty of their status and long waiting times were significant as employment and housing opportunities were jeopardised as EUSS applicants struggled to prove their right to work and right to rent.

Case Study 1: Eva

Eva made a late application for the EU Settlement Scheme in May 2022. Her ID was posted to the Home Office the following month and her GMIAU caseworker has provided more than enough evidence to demonstrate her eligibility. Her application is still outstanding and there has been no response from the Home Office to the numerous reminders about the application. Eva spent months homeless due to being unable to prove her status. She could not access Universal Credit because of confusion in the DWP around her eligibility. Because she has received help from GMIAU to prove her status and get support Eva is now accommodated under Manchester's A Bed Every Night scheme but has not received her status yet.

(Person who applied to the EU Settlement Scheme with the support of the Greater Manchester Immigration Aid Unit).

2. Updating and using digital status

Accessing a person's digital status, both in order to update personal information and to prove status, was one of the most common reasons that people approached the organisations surveyed for help.

People who had limited access to digital technologies and English language could not easily navigate the system to update their digital status or to use it to prove their status. These were relatively straightforward problems to resolve but the individuals did not have anyone in their networks who could assist them and relied on the advisors. There was no safety net when the digital status didn't or couldn't be used to prove a person's status.

The inability of individuals to access their status meant that they were not able to access services to which they were entitled, enabling their full participation in life in the UK. Although this problem was relatively easy for the organisations to resolve, the individual had often suffered significant consequences, such as loss of income because of a delay in being able to work. They were often in a state of crisis before the point of accessing help, which was exacerbated for people who were homeless or otherwise vulnerable.

3. Making the applications

Making EUSS applications, either a late initial application or an application to move from pre-settled to settled status, was another common reason why individuals approached organisations for help.

Individuals required support due to limited digital literacy or English language ability. Older people often struggled with technological barriers to make an online application. They often faced other challenges in life including health, disability, homelessness or experience of the criminal justice system that meant that their immigration status was not a top priority.

They often needed support in understanding the requirements of the scheme, including around necessary evidence. For this cohort of people, obtaining appropriate documents has been a challenge where there has been casual employment and housing arrangements. This meant that advisors had to obtain evidence via Subject Access Requests and from various agencies and public bodies. Women and the elderly also often struggled to obtain evidence to document their residence in the UK. Organisations specifically cited the Roma population as being more likely to be in this cohort of late applicants to EUSS.

Making the application required to transition from pre-settled to settled status is something organisations are currently helping with and they anticipate that this need will increase. They warned that the majority of those who they supported for pre-settled status applications would require additional support to make their settled status application. Most of these people knew of the need to reapply but had minimal awareness of the time-frame, of the implications of not applying in time and of the evidence required.

These issues were compounded by extended absences from the UK due to COVID-19 and also by the lack of clarity on the types of absences are permitted. Although there is Home Office guidance on absences, it was reported that this wasn't easily understood by applicants.

Recommendations

Our research demonstrates that, despite the common framing that the EU Settlement Scheme is now completed and has been a full success, there remain various areas of concern that need to be urgently addressed by policymakers.

This report highlights four major areas of concern: the high number of outstanding EU Settlement Scheme decisions; the digital-only nature of the status; the situation of those who still need to make a late application and those who will have to apply to upgrade their pre-settled status to settled status.

Based on our research, and following further consultation with Steering Group organisations and APPG members, a number of recommendations have been formulated that we believe can address these challenges. We acknowledge that many of the recommendations have been made by civil society organisations to policy makers and officials in the past. However, in light of the cliff-edge for pre-settled status holders that is drawing nearer, we believe that a renewed spotlight on the EU settled status scheme is important. It is therefore worth reiterating these recommendations where they have not yet been fully addressed.

The report has uncovered various points where the government could intervene using different levers within the immigration system. Some problems could be easily fixed with adjustments made to the EUSS directly. Others might require Home Office-wide reforms. Some solutions could be provided by external stakeholders.

Nevertheless, we believe it is important to note that some of the problems EU citizens experience are not unique to them or the EU Settlement Scheme. Barriers to accessing rights granted by an immigration status is a fundamental problem of immigration control, and addressing it may require changes to immigration policy as a whole.

1. Changes to the EU Settlement Scheme

Our research suggests that a number of problems could be solved directly by addressing the set-up of the digital-only status and the 'View and Prove' portal.

We appreciate that a large-scale overhaul of the EU Settlement Scheme at this stage is not desirable for policymakers. However, some organisations have suggested smaller adjustments to its functionality that can still resolve a significant number of delayed cases. This would in turn free up resources for other cases that might need individual intervention by Home Office caseworkers.

View and Prove Portal

It has been mandatory for EU, EEA and Swiss citizens to prove their right to rent and work via the online portal 'View and Prove' since July 2021. Status-holders can generate a time-limited 'Share Code' that employers, landlords and other third parties can check. Despite warnings from organisations supporting vulnerable EU citizens that struggled with digital status, in April 2022, a Home Office regulation came into effect that made it mandatory for all people with an immigration status to use an online portal, instead of the biometric residence cards and permits they have been using previously.

A number of simple changes to the 'View and Prove' portal are available to policymakers to improve outcomes for a large group of citizens who do not suffer from systemic digital exclusion. According to frontline workers, if reasonable adjustments are to be made to the portal, some service users would be more likely to quickly resolve problems without the need for external support. This would in turn free up valuable resources from supporting organisations and the Home Office for complex casework. The measures include:

1.1 Simplify digital status by giving clear instructions and make the interface of View and Prove more user-friendly

Telephone helpline

Respondents to the survey stated that some cases could be swiftly resolved if it was easier to get through on the EUSS telephone helpline. Increasing the staff on the helpline together with ensuring they are trained to resolve a range of queries would support the resolution of enquiries and enable cases to progress more swiftly.

1.2 Increase the skilled capacity of the Home Office telephone helpline to handle enquiries.

These measures are most likely to support citizens who do not face digital exclusion. However, there are a significant number of vulnerable citizens for whom digital status is more challenging to navigate, and where further intervention is required.

Digital-only status

The Inquiry has confirmed the concerns voiced by organisations since the initial roll-out of digital status: for vulnerable people and those with limited access to technology or the internet, a digital-only status system has considerable risks. To ensure that everyone is able to exercise their rights, the government should consider offering a safety net.

Therefore we recommend that the government:

1.3 Undertakes an impact assessment of digital-only status.

1.4 Issues physical proof of status which will be a safety net for vulnerable people.

Arbitrary cliff-edges: transitioning from pre-settled to settled status

EU Settlement applications opened in 2018. This means that from 2023 onwards, there will be status-holders who need to upgrade their pre-settled status to settled status. Organisations surveyed fear that some pre-settled status holders might face difficulties to upgrade their status and risk becoming undocumented overnight.

The Home Office's current interpretation of the Withdrawal Agreement means that those with pre-settled status who fail to re-apply for settled status will not have an automatic right to stay in the UK and could be in effect be undocumented. Over 2 million EU citizens and family members currently hold pre-settled status and could therefore be affected by this.

Following the IMA's legal challenge, the High Court has ruled that individuals with pre-settled status should not be made to complete a second application to the scheme or risk losing their rights under the Withdrawal Agreement. However, until the appeal process is complete and a judgement confirmed, pre-settled status holders must continue to make a second application on expiry of their status.

Until then, at the least, the Home Office should run an effective public awareness campaign to ensure that those with pre-settled status are aware of the need to reapply. Below are a range of proposals that the Government should consider to ensure EU citizens and their families can access their rights:

1.5 Prioritise a delayed application when the applicant is being prevented from accessing rights due to not being able to prove their status.

1.6 Allow those who do not meet the residency requirement for settled status to be granted a further period of pre-settled status.

1.7 Simplify the rules on extended absences.

- 1.8 Implement a lower threshold on the evidence required to prove five years residency.**
- 1.9 For transition applications, only require evidence of residency for the period between pre-settled status and the settled status grant, rather than the period for which pre-settled status has already been granted.**
- 1.10 Automatically grant settled status to those with pre-settled status after 5 years have passed, without needing to demonstrate continuous residency.**

2. Home Office Processes reform

Home Office data shows that at the end of September 2022, 188,170 people were waiting on a decision on their EUSS application. The evidence gathered in our report shows that those awaiting confirmation of their status struggle to exercise their rights: organisations have reported that their service users have lost out on employment opportunities, struggled to rent a new property or experienced issues with accessing health care or benefits they are legally entitled to. This uncertainty has a detrimental impact on the physical and mental well-being of those impacted.

We must point out that this is not unique to the EU Settlement Scheme. Many applicants to other UK visa schemes suffer from the long delays on decisions, which is caused by a large, unaddressed backlog of cases across the Home Office. Addressing the backlog across different immigration pathways will not only free up EU citizens in limbo but will have a knock on effect on others currently awaiting decisions too.

To achieve this, we recommend that the Government:

- 2.1 Commits to a review of the progress of immigration applications currently in backlog across the Home Office.**
- 2.2 Sets a timescale to resolve the cases currently in backlog with appropriate resource allocation.**
- 2.3 Ensures consistency from decision-makers in how caseworkers review evidence, so that they are processed in a timely manner and consistent with previous decisions.**
- 2.4 Ensures there are formal case escalation routes to senior Home Office caseworkers for complex cases.**

Working with other departments

Some of the issues experienced by service users might require cross-departmental intervention to be resolved. Based on recommendations made by frontline workers in our survey, the following measures should be considered to ensure the rights of those with an immigration status are protected.

- 2.6 Consideration of whether better training in agencies including DWP will improve decision making when the complexity of the range of statuses and resulting rights is the problem. There is a need for the simplification and singularity of the rights of EUSS applicants at different stages of their application process.**
- 2.7 Share best practice across Government Departments in their engagement with EUSS applicants.**

External support provision

Frontline workers have also highlighted the challenge of the reduction in funding to support people with their EUSS applications, particularly with the upcoming need for pre-settled status holders to re-apply. The Government should make the following commitments to ensure that people have access to the right support to resolve their problems:

- 2.8 Continued funding for specialist legal advice up to OISC Level 3 for those with complex cases**
- 2.9 Funding for digital assistance for those who are digitally excluded.**
- 2.10 Formalised escalation routes that all frontline organisations and community caseworkers can access to reach Home Office decision-makers.**
- 2.11 Government funding for communications campaigns targeted at EU citizens - including specialist communication for groups that might be particularly vulnerable to missing out on completing their application, such as EU citizens from an ethnic minority background and non-EU citizens who qualify, to ensure the transition from pre-settled to settled status.**

3. Upholding citizen's rights in the wider immigration policy landscape

The EU Settlement Scheme was designed to honour the UK's commitment to protect the rights of EU citizens already living in the UK after Brexit. Those who were unable to secure their status in time will be subject to a range of 'hostile environment' measures, including no longer having the legal right to stay in the UK, rent, work, or access health care. They may also be subject to removal from the country.

Freedom of Information requests have revealed that thousands of applications for the EU Settlement scheme have taken more than a year to process³. This corroborates our survey responses from advice organisations that experienced delays especially in complex applications made by vulnerable applicants. Our survey indicated that organisations found that people with outstanding applications might not be fully protected from the hostile environment while they are waiting for their cases to be resolved. They might face barriers to starting a new job, renting a new home or making a benefit claim within this period. There were deep concerns amongst organisations surveyed that the end of the EU Settlement scheme could lead to a repeat of the Windrush scandal by stripping EU citizens and their families of status overnight.

To avoid this, we recommend the Government should:

- 3.1 Implement a review of the impact of the EUSS on EU citizens in the UK and their ability to continue their lives here as set out in the Withdrawal agreement. Consider how these findings may impact and inform current immigration policy.**

3 Institute for Public Policy Research (June 2021) "[The EU Settlement Scheme and the Hostile Environment](#)".

Conclusions

Given the huge undertaking of the task of regularising over 6 million people, the EU Settlement Scheme can in part be acknowledged as successfully enabling a relatively speedy and straightforward application process for many EU citizens and their family members.

The experience of the 33 organisations surveyed for this inquiry, however, is a testament to the continued attention that the EUSS deserves from Government Ministers and Parliamentarians. Whilst constrained resources across Whitehall are recognised, together with the competing priorities within the Home Office, it is vital that the EU Settlement Scheme functions well. Vulnerable people need to be protected and future crises need to be avoided.

In practical terms, functioning well means undertaking a range of actions. Firstly, the backlog of unresolved applications needs to be cleared - with priority given to those outstanding for more than a year. Secondly, the process of moving from pre-settled to settled status needs to be simplified with clear guidelines, smarter cross-Whitehall working and automatically moving everyone who has five years of pre-settled status to settled status. Thirdly, for those experiencing difficulties with the scheme it is vital that there is sufficient high-level support from within the Home Office, aided by a sufficiently resourced voluntary and legal sector that can advise and guide these individuals. Providing a safety net for those having difficulty accessing and using digital status is important to ensure that everyone can access their rights under the scheme.

Looking to the future, a review of the operation and outcome of the EU Settlement Scheme will ensure that successes are recognised and mistakes are avoided.

Acknowledgments

Thank you to the members of the advisory group formed for this piece of research; for their advice, policy expertise and for circulating the survey to advice organisations.

Greater Manchester Immigration Aid Unit (GMIAU)

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Settled

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