



Home Office

Home Secretary

2 Marsham Street
London SW1P 4DF
www.gov.uk/home-office

Rt Hon Yvette Cooper MP
Chair, Home Affairs Select Committee
House of Commons
London
SW1A 4AA

Dear Yvette,

25 September 2019

Thank you for your letter of 20 August about the Home Office's plans for immigration in the event that the UK leaves the EU without a deal.

You are right to say that recent announcements on free movement represent a departure from the previous Government's policy. This is a new Government with new direction.

In the event that the UK leaves the EU without a deal, free movement as it currently stands under EU law will end on 31 October. However, much of the free movement framework will remain in place under the EU (Withdrawal) Act 2018 until Parliament passes primary legislation to repeal it. Ahead of that, the Government will introduce some specific changes, reflecting that we are no longer part of the EU, to increase security and better protect the UK public.

These arrangements will take effect from 31 October until the repeal of the European Economic Area (EEA) Regulations.

Taking the Committee's questions in turn:

- 1. "Have Government policy, and the plans outlined in January for a temporary transitional period until 31 December 2020, during which EU citizens can apply for temporary leave to remain, been scrapped?"***

No. The plans outlined in January for a temporary transitional period until 31 December 2020, during which EU citizens can apply for temporary leave to remain, have not been scrapped.

As announced on 4 September 2019, for a transitional period after Brexit on 31 October 2019 until 31 December 2020, law abiding EU citizens and their family members will be able to move to the UK and live, study, work and access benefits and services as they do now.

EU citizens moving to the UK after exit, and their close family members, will be able to apply for European Temporary Leave to Remain (Euro TLR), a new voluntary scheme that will launch after exit.

Euro TLR will provide certainty and confidence that the holder can remain in the UK after the end of 2020. The status – fully digital for EU citizens, and with a physical immigration document for their non-EEA family members – can be used to evidence their entitlements. It also provides a bridge into the new immigration system and counts towards the qualifying period for settlement if the holder of Euro TLR successfully applies for leave under the new system in a route which leads to settlement.

2. “If so, how will you differentiate between new arrivals from the EU and individuals who have not been granted settled status by 31 October?”

Until 2021, all EU citizens will be able to evidence their right to live and work in the UK by using a valid EEA or Swiss passport or national identity card, as now. Non-EEA family members of EEA and Swiss citizens will be able to rely on a Home Office-issued immigration document, as now. Eligibility for benefits and services will remain as now.

Those who apply to the EU Settlement Scheme (EUSS) will be asked for evidence of their pre-exit residence in the UK.

Where the applicant provides their National Insurance number, we will use HMRC and DWP data to confirm their UK residence, with scope for the applicant to provide additional evidence if necessary.

For those EEA citizens who arrived just before exit, a used travel ticket confirming previous inbound travel to the UK will be treated as evidence of residence for the month of entry. Guidance on the full range of acceptable evidence is available at <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>.

3. “When will EU citizens, employers and Parliament be told the details? When will the Border Force be told the details? And what changes to immigration rules, technology, software or Home Office procedures will need to be in place by October 31? What level of confidence do you have that this can be delivered in ten weeks’ time?”

As above, the Government has now publicly reaffirmed its intention to introduce the Euro TLR scheme after exit in a no deal scenario.

In respect of the changes that the Home Office will need to be in place for Euro TLR, the scheme will be delivered using the same architecture that has been built for the EUSS. The application process will be online and streamlined, with minimal evidential requirements.

The Home Office has always planned to grant a UK immigration status to this cohort, but under the EUSS in a deal scenario.

We will bring forward some secondary legislation under section 8 of the European Union (Withdrawal) Act 2018 to amend aspects of our domestic legislation which become

deficient upon the UK's departure from the EU. For example, removing the rights for post-exit arrivals to acquire permanent residence under retained EU law, and the rights for UK nationals who move to the EU after exit to return to the UK with their family members without meeting UK family immigration rules. In a deal scenario, commencement of these changes will be delayed until the end of the implementation period. Other changes will be delivered through changes to Immigration Rules.

4. *“Will you place additional requirements on newly arriving EU citizens in order to be able to enter the country after October 31?”*

5. *“Will you require additional documentation to be presented at the border to secure entry, such as proof of address by new arrivals and existing residents returning to the country?”*

For the time being, border crossing arrangements will remain unchanged, and we will not place any additional requirements on newly arriving EU citizens or existing residents returning to the country.

EEA citizens will enter the UK as they do now, using their passport or national identity card. They will be able to use e-Gates if they are travelling on a biometric passport and will not face routine questioning upon arrival. EEA citizens will be subject to security checks, as now, but will face tougher UK rules on criminality.

This means that, instead of current EU public policy tests, for conduct after Brexit we will apply UK criminality rules to resident EEA citizens and newly arriving EEA citizens and their family members. These rules will apply at the border and also when crimes are committed in the UK.

6. *“Will newly arriving EU citizens after October 31 have the same ability to work, rent accommodation or use public services as they do now? If not, what measures could employers or landlords or public services be expected to introduce for newly arrived EU citizens from 31 October?”*

Yes. Until 2021, newly arriving EU citizens after October 31 will have the same ability to work, rent accommodation or use public services as they do now - by using a valid EEA or Swiss passport or national identity card.

7. *“Will you ensure that these measures are not imposed on those who were living in the UK before 31 October - and if so how?”*

There is a cross government, extensive public communications campaign, seeking to ensure that businesses, landlords and service providers are made fully aware of their responsibilities: namely, that there will be no changes to the checks that they are currently required to undertake in respect of all EEA and Swiss citizens until the future immigration system is introduced.

Individuals who have obtained status under the EUSS or Euro TLR Scheme can also choose to use the online status checking service to evidence their entitlement to live and work in this country when starting a new job. After the new immigration system is

introduced, those holding status under the EUSS or Euro TLR schemes will need to demonstrate it using the on-line service when applying for new work or services. We will not expect employers or landlords to conduct a retrospective check in relation to existing employers or tenants when the new system is introduced.

8. “The BBC reports that “tougher criminality rules” will be introduced for those coming to the UK.5 How will the Government access EU criminal records in a no-deal scenario, when it will be locked out of the European Criminal Records Information System (ECRIS)? What steps will be taken to ensure that EU citizens are not denied entry to the UK while any criminal records are obtained from the EU27, such as on a bilateral basis?”

In a no deal scenario, the UK would lose access to electronic exchange through ECRIS, and requests would be facilitated under the 1959 Convention on Mutual Assistance in Criminal Matters (1959 Convention). This convention is already used by other countries as a means of Criminal Record exchange.

We would revert to non-standardised forms and information received would not be translated or coded.

EU citizens will be subject to security checks, as now, but will face tougher UK rules on criminality and conduct committed after exit. As is the position now, EU nationals will only be prevented from entering the UK where a decision has been taken that they do not qualify for admission. Border crossing arrangements will remain unchanged and EU nationals will not face routine intentions checking.

9. “In March, the Government set out its plans to hold a comprehensive engagement programme with stakeholders to gather views on the future immigration system. Is it now the Government’s position that it can consult stakeholders and develop an entirely new, fit-for-purpose immigration system (even on a temporary basis) in less than three months?”

Euro TLR is quite separate from any engagement on broader changes to the immigration system beyond 2021.

10. “You will be aware that the committee warned that, “The determination of the Government to end free movement on the date of departure if the UK leaves the EU without a deal could lead to a situation where long-term EU residents of the UK are, in the period between exit and the closure of the Settlement Scheme, disadvantaged and discriminated against in areas such as employment or housing if they are not able to evidence their entitlement to remain.” How will you ensure this is not the case?”

The Home Office are putting in place transitional arrangements and ensuring that EEA and Swiss citizens can obtain a UK immigration status which they can evidence but will not be required to demonstrate until the deadline for the EU Settlement Scheme at the end of 2020.

From 2021, EEA citizens will either need to hold pre-settled status or settled status, Euro TLR or an immigration status under the new immigration system. Individuals who have obtained status under the EUSS or Euro TLR, will be able to use the new online status checking service to demonstrate their entitlement to live and work in this country. Their non-EEA citizen family members will have a Home Office physical immigration document in addition to their online status.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'P. Patel', written in a cursive style.

Rt Hon Priti Patel MP