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for Exiting the  
European Union

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The Rt Hon. the Lord Morris of Aberavon KG QC  
Chairman, EU Justice Sub-Committee  
House of Lords  
London  
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Our ref: MC2019/08054

9<sup>th</sup> October 2019

Dear Lord Morris,

Thank you for your letter of 3 September. I am responding on behalf of the Secretary of State.

As you know, the Prime Minister has been clear that we are committed to protecting citizens' rights whatever the outcome of negotiations and that citizens' rights will never be used as a bargaining chip. There are over three million EU citizens living and working in the UK and around one million UK nationals in the EU. In any scenario, we want them to have absolute certainty on their right to live and remain wherever they have chosen to make their home, be it in the UK or EU<sup>1</sup>.

In December 2018, the Government published its unilateral guarantee that in a no deal scenario EU citizens in the UK will be able to continue to work, study and access in-country benefits and services as they can now.<sup>2</sup> The Government has fully prepared the legislation required to implement the rights set out in the unilateral guarantee.

We have opened the EU Settlement Scheme to allow EU citizens to secure their future rights in the UK. The scheme is performing well. Over 1.7 million EU citizens have applied for status and over 1.5 million people have already been awarded a status under the scheme<sup>3</sup>. The scheme is free, simple and digital and EU citizens resident in the UK before exit day have until at least 31 December 2020 to apply. The Home Office has also put in place a comprehensive vulnerable people strategy, which includes grant funding of £9 million that has been awarded to 57 community organisations. These organisations are already providing support to those who need it and are estimated to reach 200,000 vulnerable or hard-to-reach EU citizens. Further support is also available via the Settlement Scheme Resolution Centre, 86 ID document scanning locations across the UK, specific support for children in care and ongoing communications and community outreach events. I can also confirm that the ID checker app, currently available on Android devices, will also be available on Apple devices by the end of October.

<sup>1</sup> [Population of the UK by country of birth and nationality: January to December 2018](#), Office of National Statistics, May 2019 and [Living abroad: British residents living in the EU: April 2018](#), Office of National Statistics, April 2018.

<sup>2</sup> The policy paper is published on gov.uk here:

<https://www.gov.uk/government/publications/policy-paper-on-citizens-rights-in-the-event-of-a-no-deal-brex>

<sup>3</sup> [EU Settlement Scheme Statistics](#), August 2019.

## UK NATIONALS IN THE EU

The Government is clear that UK nationals currently living, working and studying in the EU deserve certainty about their rights going forward, in any scenario. Whilst we have set out a package of unilateral measures to support UK nationals where it is possible to do so, in a no deal scenario the Government cannot unilaterally protect the rights of UK nationals in other countries. We have therefore called on Member State to reciprocate our guarantee to EU citizens in the UK. I am pleased to report that all Member States have now committed to protect UK nationals, albeit in varying detail. Crucially, these offers all provide a route for UK nationals and their family members to remain resident once the UK leaves the EU.

### ***Member State offers to UK nationals***

We welcome the offers made by Member States but I would like to draw your attention to a number of areas of ongoing concern, which feature in a number of Member State offers. For example, in many Member States:

- the deadline for registration is shorter than the deadline set by the UK and in some Member States the no deal offer only applies to UK nationals who register by exit day. In the UK, EU citizens will only need to be legally resident by exit day and have until at least 31 December 2020 to apply to the EU Settlement Scheme;
- the right of return offered to UK nationals with status is less generous, mostly set at only a two-year right to return whereas the UK is offering five years with settled status; and
- UK nationals may lose access to some in-country benefits and services as they move to third-country nationals status, including rights currently covered by the EU social security coordination, including reciprocal healthcare, framework.

Whilst all Member States have put measures in place for UK nationals to secure their residency status, there are a number of Member States who will place further requirements on UK nationals when applying for residency.<sup>4</sup> In some Member States this includes:

- the requirement for UK nationals to show proof of health insurance and minimum resources for certain types of residence;
- long-term residency being subject to minimum income requirements; and
- significant concerns around the implementation of some offers to UK nationals.

I have also received reports, as recently as the last two weeks, of UK nationals struggling to secure appointments to register across a range of Member States.

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<sup>4</sup> The European Commission has published a consolidated list of measures taken by Member States to protect the residence rights of UK nationals in the EU in a no deal scenario:  
[https://ec.europa.eu/info/brexit/brexit-preparedness/citizens-rights\\_en#uknationalsresidenceintheeu27](https://ec.europa.eu/info/brexit/brexit-preparedness/citizens-rights_en#uknationalsresidenceintheeu27)

## ***Communications, engagement and support***

To address these concerns, Ministers and officials are continuing intensive engagement with our EU partners and asking them to fully reciprocate our commitment to EU citizens and address the gaps in their offers that I have outlined above. We are also continuing to encourage each Member State to communicate the details of their plans as soon as possible so that UK nationals can prepare for exit. These Member State communications will supplement the Foreign and Commonwealth Office's £11 million 'UK nationals in the EU' and 'UK travellers to the EU' public information campaigns. These campaigns are already live and providing clear, factual, information to UK nationals living in the EU and to those planning to travel there after exit day. We are also directing UK nationals to 'living in' guides and travel advice on gov.uk, which provides up-to-date guidance on the actions that individuals need to take now to get ready for exit.

The Foreign and Commonwealth Office's Embassies, Consulates and High Commissions, with support from my officials here in London, have also intensified their engagement with British communities in Member States. Since November 2017 we have held over 552 outreach events for UK nationals across Europe, reaching over 258,000 attendees and have significantly increased the capacity of our Europe consular network to ensure we can effectively respond to any increase in UK nationals seeking consular help following exit.

I would also like to draw your attention to the recent launch of the Government's UK nationals support fund, which was announced on 30 August<sup>5</sup>. This fund will provide grants up to a total of £3 million to third party organisations in order to support UK nationals living in the EU and EFTA states with the process of registering for residency in the country which they reside. We are working to operationalise this scheme as soon as possible. Organisations will be required not only to inform UK nationals who need assistance about the need to register for residency but also provide practical support as they complete their applications. For example, taking a UK national without transport to local authorities, helping them to fill out the relevant forms in a foreign language and helping the hardest to reach. The Foreign and Commonwealth Office's consular network will also continue to provide professional, tailored assistance to vulnerable UK nationals overseas.

## ***Local voting rights***

The Government is pursuing bilateral arrangements with individual Member States to protect the right to vote and stand in local elections. These arrangements would secure these rights for both UK nationals living in the EU and EU citizens in the UK.

We have now reached bilateral agreements on voting rights with Spain, Portugal and Luxembourg and have made positive progress with a number of other Member States. UK nationals will be able to continue to vote, and in some cases stand, in elections in certain Member States where their domestic legislation allows and they meet the requirements set

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<sup>5</sup> The gov.uk announcement is here: <https://www.gov.uk/government/news/3-million-grant-to-help-uk-nationals-in-eu-for-brexit>

out. For example on length of residency. This includes Belgium, Denmark, Estonia, Finland, Ireland, Lithuania, Netherlands, Slovakia, Slovenia and Sweden.

### ***Unilateral measures***

In regard to unilateral measures for UK nationals in the EU, the Government's '*Citizens' Rights - UK nationals in the EU*' policy paper, published on 4 April 2019, set out further measures to support UK nationals in the EU where it is unilaterally possible for the Government to do so.<sup>6</sup> It is already the case that every child in England is entitled to apply for and be offered a state-funded school place, including any UK nationals who may choose to return from the EU and this won't change. However, the Government has also set out the following measures to provide certainty to our nationals:

- UK nationals residing in the EU will retain the right to access student finance and home fee status for Higher Education, Further Education 19+ and Apprenticeships in England for a transitional period of seven years after exit day, before their rights are brought into line with those of other UK nationals abroad. We have worked closely with the Devolved Administrations on this measure, which they have also set out for UK nationals who wish to study in Scotland, Wales and Northern Ireland;<sup>7</sup>
- UK nationals currently living in the EU can return to the UK with an existing close third-country national family member, such as a spouse or parent, until 29 March 2022 under current rules and those family members can apply to the EU Settlement Scheme;
- dependant family members and partners who have lived with a UK nationals in the EU, where the relationship was established after exit day, can also return to the UK and apply to the EU Settlement Scheme until 31 December 2020. After this date the UK Immigration Rules will apply, as they do for UK nationals living in the UK and other UK nationals returning from abroad, to ensure parity in our immigration system;
- UK nationals already in receipt of a UK benefit in the EU will continue to receive these benefits in the EU and should they choose to return to the UK, subject to still meeting entitlement requirements;
- UK nationals and their family members who return to the UK and who wish to make a new application for in-country benefits and services will, as with any resident UK national, be able to do so; and

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<sup>6</sup> The policy paper has been published on gov.uk here:

<https://www.gov.uk/government/publications/policy-paper-on-the-rights-of-uk-nationals-in-the-eu>

<sup>7</sup> Scotland: <https://www.gov.scot/news/support-for-students-after-eu-exit/>. Wales:

<https://gov.wales/preparing-wales-brexite/education-and-skills>. Northern Ireland::

<https://www.studentfinanceni.co.uk/news/brexit-support-for-uk-students-living-in-the-eu-eea-or-switzerland-and-returning-to-the-uk-to-study-post-eu-exit/>



- the Government set out its proposal to seek an EU-wide approach or bilateral arrangements with Member States to transitionally apply the current social security coordination, including reciprocal healthcare, framework in full until the end of December 2020 to deliver elements that cannot be protected unilaterally by the UK, such as reciprocal healthcare.

Whilst our absolute priority, as set out above, is to work with Member States to ensure UK nationals can stay living in the EU if that is what they want to do the Government's unilateral measures also support those who choose to return to the UK after exit. We have set out these commitments to provide reassurance to UK nationals in the EU on their entitlements should they choose to return to the UK in the future.

### ***Common Travel Area***

The measures I have outlined are without prejudice to the rights and privileges accorded, by virtue of the Common Travel Area, to Irish and UK nationals when in each other's state. Furthermore, the UK and Irish Governments have concluded a reciprocal agreement to ensure continuity of social security rights of British and Irish citizens moving between the two countries. They have also legislated to maintain the wider rights that flow from the Common Travel Area arrangements.

### ***EEA EFTA States and Switzerland***

The Government has also concluded agreements with the EEA EFTA states of Norway, Iceland, and Liechtenstein and also with Switzerland to protect citizens' rights and provide certainty in both a deal and no deal scenario with the EU<sup>8</sup>. These agreements provide for UK nationals and nationals of the EFTA states who are currently legally resident in an EFTA state or the UK respectively to continue to live, work and study in each other's countries after exit day, broadly as they do now. The agreements also provide for social security coordination, including reciprocal healthcare, to continue for those who have moved between the UK, the EEA EFTA states or Switzerland before exit day and are in full scope of the agreements.

We have also agreed a transitional migration agreement with Switzerland to protect UK workers access to the Swiss labour market and Swiss nationals access to the UK labour market until December 2020 in a no deal scenario.<sup>9</sup> This agreement includes additional protections for UK nationals who frontier work into Switzerland beyond those set out in the citizens' rights agreement and waives certain Swiss rules such as skill level, national preference and economic interest, which normally apply to non-EEA nationals applying for work permits in Switzerland. The Swiss Federal Council has also announced a quota of 3,500 work permits ring-fenced for UK nationals in 2019 and I am expecting the 2020 quota to be announced shortly.

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<sup>8</sup> The gov.uk announcement is here:

<https://www.gov.uk/government/news/uk-and-eea-efsa-states-strike-agreement-to-protect-citizens-rights-in-a-no-deal-scenario>

<sup>9</sup> The gov.uk announcement is here:

<https://www.gov.uk/government/news/uk-swiss-transitional-migration-arrangements-for-a-no-deal-scenario>

## **SOCIAL SECURITY COORDINATION, INCLUDING RECIPROCAL HEALTHCARE**

If the UK leaves the EU without a deal, the current social security coordination arrangements with the EU will end. In this scenario, the Government will continue to operate the existing social security coordination framework so far as possible on a unilateral basis. This is until decisions have been made on future rule changes, including those resulting from any agreement with the EU or Member States.

The European Union (Withdrawal) Act 2018 will retain directly applicable EU legislation in domestic law after the UK leaves the EU. This includes EU Regulations and directly effective treaty rights. The EU legislation relating to social security coordination will therefore form part of UK domestic law. Primary legislation will be required to make significant changes to the retained EU legislation relating to social security coordination.

However, some aspects of social security coordination, including reciprocal healthcare, cannot be protected unilaterally and require cooperation from either the EU or individual Member States. This is particularly crucial for reciprocal healthcare as we require reciprocity from Member States or the EU to activate our domestic legislation. Without cooperation there is also no guarantee that Member States will continue to share the information needed to assess benefit entitlement or to ensure that individuals are only subject to one country's legislation at a time. It is also possible that some UK nationals in the EU could be treated as third-country nationals and lose access to some benefits and to healthcare cover.

That is why, in a no deal scenario, the UK is seeking an EU-wide approach or bilateral arrangements with Member States to transitionally apply the current social security coordination framework, including reciprocal healthcare, in full until the end of December 2020. This is a responsible solution to protect the rights of individuals who move to, visit or work in the UK or EU until that date. The Government has also passed the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019, which has strengthened our legal basis to fund and implement reciprocal healthcare schemes after we leave the EU.

The EU and Member States have also prepared or enacted no deal contingency measures and legislation that will come into place after a no deal exit. However, the extent to which these measures will protect UK nationals' existing rights to benefits and healthcare varies considerably by Member State. I would also like to stress the risk that some UK nationals will be exposed to change and continued uncertainty, in particular in relation to healthcare and social security rights.<sup>10</sup>

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<sup>10</sup> The European Commission has published information about the measures taken by the EU Member States on social security coordination, including pension entitlements related to the UK in a no deal scenario:  
[https://ec.europa.eu/info/files/overview-national-measures-area-social-security-coordination\\_en](https://ec.europa.eu/info/files/overview-national-measures-area-social-security-coordination_en)

In response to the Government's proposal to remedy this gap in cover, beyond the contingency measures it has already taken on social security coordination, the European Commission's position has been to take no further action to secure a transitional EU-wide approach on social security coordination, including reciprocal healthcare, and has discouraged Member States from entering into bilateral arrangements with the UK to protect UK nationals in a no deal scenario. Despite this, the UK is pursuing technical discussions with Member States with the aim of agreeing bilateral arrangements on social security coordination, including reciprocal healthcare, until 31 December 2020 if the UK leaves the EU without a deal on 31 October 2019.

### ***Reciprocal Healthcare***

Turning specifically to reciprocal healthcare, which sits within the wider social security coordination framework, in the absence of an EU-wide approach, the Department of Health and Social Care has offered all Member States to continue existing reciprocal healthcare arrangements until at least 31 December 2020.

The UK Government is seeking reciprocal agreements ahead of leaving the EU on 31 October and is currently undertaking technical discussions with a number of countries who have already passed domestic legislation that will support reciprocal healthcare with the UK after Brexit.

Healthcare access in Spain will remain the same after exit day, whatever the Brexit scenario. This is because the UK and Spain have each taken steps to ensure that people living in each country can continue to access healthcare as they do now until at least 31 December 2020, using their S1 forms. UK EHIC holders in Spain, and those who have planned treatment in Spain using an S2 form will also be able to continue to access healthcare in the same way when they are in Spain until at least 31 December 2020. The UK Government is now seeking to work closely with Spain to agree how this will work in practice. The Spanish government's guidance on access to Spanish healthcare and Brexit can be found here: [www.lamoncloa.gob.es/lang/en/brexit/Paginas/index.aspx](http://www.lamoncloa.gob.es/lang/en/brexit/Paginas/index.aspx)

We recognise that as we leave the EU, arrangements may not be straightforward and people may experience some challenges. As such, while countries and individuals put arrangements in place, we have taken a number of steps to support and protect those whose healthcare the UK currently funds (known as UK insured), who are either living in the EU or visiting temporarily on Exit day. The UK Government wants to ensure that all UK-insured individuals are in a good position to assess their options and prepare for what comes next. Specifically:

- The Department of Health and Social Care has provided information online and the NHS Business Service Authority has written to S1 holders in Member States, encouraging individuals to consider their circumstances and options, and to take the necessary steps to ensure they have appropriate coverage in place. The necessary steps will vary depending on individual circumstances and by country;

- For UK-insured individuals who may find themselves in a particularly vulnerable situation because they fall ill before the UK leaves and require treatment that spans exit day, we have made specific transitional provisions. If an individual requires healthcare treatment before the UK leaves the EU and the treatment will continue until after Brexit, the UK Government will pay for this course of treatment for up to one year (or the authorised period in relation to an S2) or the period of treatment if shorter. This will apply for those receiving healthcare as an S1, S2 or as an EHIC holder;
- The UK Government will fund the healthcare of existing UK-insured individuals living or working in the EU, on the same basis as now, for a further six months from the point of Brexit. This provision is aimed at providing individuals time to make alternative arrangements for their future healthcare cover, including registering for healthcare in their country of residence;
- The UK will also continue to cover those travelling to the EU, whose visits commenced prior to Brexit day until they return to the UK, up to a period of six months;
- Students may find themselves in a particularly challenging position if they are already studying abroad. All students are encouraged to take out comprehensive travel insurance and to investigate local healthcare schemes that they may be eligible for. However, given the circumstances, the UK Government has agreed to continue existing cover of healthcare costs for students for the duration of their course, should they be already studying in a MS at the point that the UK leaves the EU and on the basis of evidence from their Institution. More information on support for students can be found here ([www.gov.uk/guidance/studying-in-the-european-union-after-brexit](http://www.gov.uk/guidance/studying-in-the-european-union-after-brexit)); and
- In exceptional circumstances, the UK Government has put in place provisions to provide bespoke support to people who find themselves in a challenging position due to a change in their healthcare cover after Brexit. This scheme will run from 1st November 2019 for at least a year with strict criteria and will only support those with very limited financial means.

Individuals should not delay taking action to put appropriate permanent arrangements in place for when the UK leaves the EU on account of this additional support, particularly as for some EU countries the timeframe for UK-insured individuals to register with their domestic health system is far shorter than six months.

More information on the status of our technical discussions with Member States and our contingency arrangements can be found in a Written Ministerial Statement made by the Department of Health and Social Care on 26 September, entitled 'Update on Reciprocal Healthcare Arrangements for Brexit'.

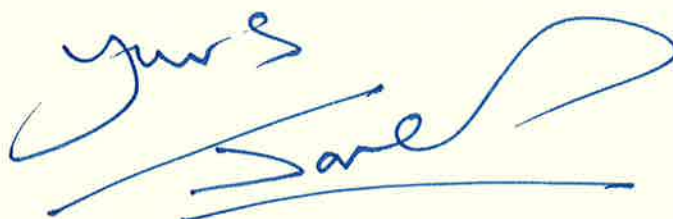


## **UK State Pensions**

With regard to UK state pensions paid to eligible UK state pension recipients living in Member States, in the event of a no deal exit, the UK has now committed to uprate across the EU for a further three years beyond our initial one year commitment to uprate for the financial year 2019/20<sup>11</sup>. This means that the UK will continue to uprate the UK State Pension across the EU for the next 3 years until March 2023. This additional commitment would extend both to those UK State Pension recipients in the EU at Exit Day, and to those pensioners who move there from the UK or start to receive their UK State Pension during the period of the commitment. During that period, we will seek EU-wide reciprocity and/or agreements to maintain the current policy.

Safeguarding the rights of EU citizens living in the UK and UK nationals living in the EU continues to be one of my top priorities as a Minister. I know that this is an objective that we share and that you have been working closely with stakeholder groups and parliamentary colleagues to explore solutions to protect these rights. I would like to thank you for these efforts and look forward to working with you to ensure that the rights of citizens are protected whatever the outcome of negotiations.

I trust this response will prove a helpful contribution to your ongoing inquiry. In addition I am aware you have invited the Secretary of State to give evidence. You will also be aware that the Secretary of State has agreed to give evidence to the House of Lords European Union Committee on 21 October to update the Committee on the progress of negotiations. To that end he would be happy to answer any further questions during that session.



**JAMES DUDDRIDGE MP  
PARLIAMENTARY UNDER SECRETARY OF STATE FOR  
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<sup>11</sup> The gov.uk announcement is here:

<https://www.gov.uk/government/news/uprating-guarantee-for-uk-state-pension-recipients-living-in-the-eu-after-brexit>