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Baroness Kennedy of The Shaws QC
Chairman of EU Justice Sub-Committee
House of Lords
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Dear Helena,

20 March 2019

EU Settlement Scheme

Thank you for your letter of 27 February regarding the EU Justice Sub-Committee's findings and recommendations about the EU Settlement Scheme (EUSS).

I am pleased to hear your positive feedback regarding the Committee's visit to the EU Settlement Resolution Centre (SRC). The EUSS continues to perform well. Since the opening of the initial private beta test phase, we had, by the end of February 2019, received more than 150,000 applications under the scheme, of which 135,000 (nearly 90%) had already been concluded. Of these concluded cases, 71% were granted settled status, with the rest granted pre-settled status and none refused. Of those who provided feedback, 80% found the online application process easy or fairly easy to complete.

Ahead of full roll-out, we are continuing to test the Scheme as part of the public beta that commenced on 21 January, which will enable us to learn further lessons from applicants' experience of using the system and to make further improvements ahead of the full opening of the scheme on 30 March. Throughout, I have been keen that we ensure that we provide the right access to the scheme for all those who will need to obtain status under it.

Turning to the Committee's issues on four principal aspects of the scheme, and technical enquiries that you have raised.

A. Awareness of the Scheme: Good communication, beyond electronic engagement

I agree with you regarding the importance of widespread and welcoming advertising of the EUSS. Since 2017, we have held monthly meetings with representatives of EEA citizens, employers and consulates on the design and development of the scheme and communications plans.

It is vital that EEA citizens and their family members living in the UK understand how and when to apply to the EU Settlement Scheme. That is why we have already put in place a comprehensive plan to communicate about the scheme through a broad range of channels, as set out below.

Direct communications to EEA citizens

In 2018 we ran Stay Informed, an online and social media advertising campaign to generate awareness and improve understanding of the EU Settlement Scheme. Millions of people have already seen this advertising encouraging people to visit GOV.UK for easy to understand information. EEA citizens can also sign up for official email updates; over 330,000 people have so far signed up.

At the end of March, a new national marketing campaign will encourage EEA citizens to apply when the Scheme is fully open. The Home Office has allocated around £3.75million for the first phase of a UK-wide public information campaign, which will be highly visible throughout the UK and use a broad mix of media, including outdoor advertising (bus stops, billboards, in rail stations), radio, catch-up TV, social media and online.

The new campaign has been tested extensively with EEA citizens from a range of backgrounds to ensure it is both welcoming and clear that EEA citizens need to take action. We plan to evaluate the success of the campaign and further investment will be kept under review over the lifetime of the Scheme.

Employers

Employers are a key audience and channel for reaching the many EEA citizens working in the UK. Ensuring employers, including small businesses, have the necessary information to inform their staff is an important strand of our communications activity. We have therefore developed an engagement and information-sharing programme, including briefing some of the largest employers of EEA citizens and a range of sector bodies.

We have also published an 'employer toolkit' which is available for all businesses on GOV.UK. As with the operational delivery of the scheme, we are also collaborating closely with other government departments to ensure employers receive information on the scheme. This includes communications via HMRC and BEIS' business readiness campaign.

Local authorities

We have set up a comprehensive engagement and collaborative working programme with local authorities, including a series of regular teleconferences; over 220 have participated so far. We will be further supporting local authorities by providing them with our marketing materials and further communications resources including a toolkit when the scheme is fully live. Throughout March, we'll be engaging further with local authorities across the UK.

Assisting the most vulnerable

Protecting the rights of vulnerable citizens is a core element of our communications and engagement plans. No-one will be left behind, which is why we are working in partnership with vulnerable group representatives, local authorities and other experts to make sure we reach everyone. Since April 2018, we've engaged with civil society organisations through a monthly group for safeguarding. We have also worked with a range of these organisations to co-create a support system to help vulnerable EEA citizens apply to the EU Settlement Scheme.

We have published a community leaders toolkit on GOV.UK which contains practical and ready-made communications materials aimed at giving voluntary and community sector organisations, and local authorities the ability to cascade messages about the EU Settlement Scheme. We are translating communications materials into all 23 EU languages and Welsh, and alternative formats can also be requested.

B. Assistance with applications

You have raised issues regarding the Home Office's emphasis on making applications online and providing evidence electronically. The Committee has recommended that the Home Office provides accessible application centres for anyone who would like assistance with their application.

I agree with you on the importance of accessibility of the application process. While we have rightly designed an online system to provide a quick and simple way for the majority of EEA citizens to obtain their status, we are equally committed to helping vulnerable individuals to obtain their status under the scheme and will be providing a range of direct and indirect support to enable this. The monthly safeguarding group is working with the Home Office to ensure the right support arrangements are in place.

Digital support provided will range from telephone advice from our customer support centre through to face-to-face digital support provided at many locations nationwide, with a home tutor service also being available for those who require digital support in their own home. Additionally, the resolution centre that your Committee visited stands ready to support people with any enquiries or issues they may have, with 250 call operatives on hand to provide support over the phone and by email.

In addition to a network of centres where citizens can access face-to-face digital support through our Assisted Digital network, we are also putting in place other locations to allow those who do not wish to send their document by post or use the EU Exit ID Document Check app, to verify their identity at 50 locations nationwide.

C. Physical proof of status

You propose that individuals who are granted status under EUSS, should have the opportunity to acquire a document or other hard copy form of evidence of their right to be in the UK.

I would firstly like to clarify that EEA citizens' ability to evidence their rights will not be dependent on their having a digital status until the end of the transition period in 2021; until then, they can continue to show a passport or national identity card.

For every decision we make, we send the applicant a decision letter via email in addition to the online status that will be used to prove evidence of rights in the UK. The online status given to EEA citizens is a secure and permanent record held by the Home Office that is accessible to the holder at any time and which cannot be lost or stolen. Holders of this status will also be able choose to allow third parties such as employers or landlords to have time-limited access to relevant information, to demonstrate their status.

By giving individuals direct access to their own data – and the ability to share this with service providers – we are giving them greater transparency and control over what data is shared. People will be able to better understand their rights and keep information updated.

We have already trialled this service with non-EEA citizen migrants to view and share their right to work information with employers. And the service has been well received by both migrants and employers.

With an online service, we can also ensure that employers, landlords and others that are required to check a person's status only see the information that is relevant to their need, giving them confidence that they have completed the checks correctly and the holder of status clarity that they have the rights they are seeking to prove.

Many of the vulnerable people that your letter indicates will be in a situation where they are required to evidence their status, for instance the elderly, are significantly less likely to work or to rent. Requiring them to have and maintain a card is therefore an additional level of bureaucracy.

My department is working with the DWP and NHS to enable the sharing of status between us, both where the holder can consent and when at times they cannot, for their benefit. If the Government knows a person has status, the onus should not be on the individual to prove it when they need it most (there is no requirement to demonstrate status for access to care at the GP or A&E).

Using a physical document as evidence of status, as has been the practice to date, does not achieve these benefits. It can also cause significant problems when documents are lost, stolen, damaged, expired or in the process of being renewed.

Additionally, there are individuals whose documents are controlled by others – for examples, in cases of domestic violence, modern slavery and human trafficking. Moving to an online status is a step forward in tackling those who seek to control others.

A digital status is also much easier to use for visually impaired and dyslexic users who may have difficulty reading a physical document, and also gives us the option of providing a view of the status in one language for the holder and in English for those who conduct checks, which is something my department is considering. It also provides space for a more comprehensive explanation of an individual's rights and status, as compared to the limited characters that can fit on to a small card.

The replacement of physical documents with digital alternatives is not new and many countries have or are planning to move to e-visa or ESTA/ ETA arrangements for immigration and travel, including the UK as published in the future skills-based immigration system white paper.

I appreciate the cultural change this represents for many EEA citizens. However, EEA citizens' ability to evidence their rights will not be dependent on their having a digital status until 2021; until then, as set out above, they can continue to show a passport or national identity card. This means they will have adequate time to become familiar with the new system.

This new digital capability forms part of moving the UK's immigration system to digital by default and is a simpler, safer, and more convenient system. We are of course keeping this under review to see how it works in practice during this period where no one need use any different documentation than today to demonstrate their status.

D. Transfers from pre-settled to settled status

I note your points raised regarding the absence of a systematic scheme to move people from pre-settled to settled status.

The information on GOV.UK, and in the decision letter issued to those granted pre-settled status, makes it clear that they will need to apply to the scheme again if they wish to be granted settled status, and that they can do so at any point at which they qualify for settled status (they do not need to wait until the end of their five years' pre-settled status).

It would not be possible or desirable to automatically grant settled status to all those granted pre-settled status after five years: some may not have qualified for it (for example if they broke the continuity of residence in the UK which, in line with the draft Withdrawal Agreement, is required for settled status, by being absent for more than six months in any 12-month period, or for more than 12 months where they had good reason, such as an overseas posting, for exceeding the six months).

Some may already have qualified for settled status if they met the criteria for this in circumstances, such as early retirement as a worker, where five years' continuous residence is not required. Some may have left the UK permanently or died in that period; some may intend to leave the UK before their pre-settled status expires. In addition, waiting to automatically grant settled status after five years' pre-settled status would mean that some people would obtain settled status later than they would otherwise have done so if they had applied for it once they were eligible.

We are however considering whether it would be possible to implement a reminder system to prompt those whose pre-settled status is about to expire, and who haven't yet applied for settled status, to do so if they are still in the UK and intend to remain here.

Technical enquiries

1. Assistance to vulnerable applicants

The Home Office is making sure that the scheme is accessible and capable of handling vulnerable applicants with flexibility and sensitivity. As already mentioned, we are enlisting the help of a wide variety of organisations that have expertise and strong local links with vulnerable EEA citizens in communities throughout the UK.

In addition, we are providing a £9million grant fund for voluntary and community organisations across the UK to support EEA citizens who might need additional help when applying. We are also working closely with local authorities across the four nations to agree responsibilities in relation to looked after children and adults with care and support needs.

As set out above, guidance materials will be available in a range of media, including video content to support those with language and literacy barriers. Content will be translated into all 23 EU languages and Welsh to ensure applicants have access to support materials in their first language where needed.

2. Funding for community groups to assist the vulnerable

The grant fund has been designed to ensure that no organisation was excluded from bidding for funding. The key outcome is for those funded to provide practical application support to vulnerable EEA citizens and their family members.

The Home Office aims to ensure grants are awarded across the UK and to organisations that work with a diversity of at-risk groups, so that support is delivered to those that need it most. Further comments about the fund cannot be made at this time due to commercial sensitivities, but details of awards will be made public once the process has been completed.

3. Issues inputting telephone number in the application process

It is not the case that applicants are expected to have a UK telephone number. Different countries do have different length phone numbers, but our validation allows for this. In order to pass validation, the phone number entered has to have at least six digits, and no more than 30 digits. The international recommended standard is no more than 15 digits including the international dialling code, but not including suffixes / extension. There has been no noticeable trend of calls to the Settlement Resolution Centre with this issue.

4. Issues inputting long names and those not in the Latin alphabet

In the application, we ask that the applicant provides the name as written on their identity document, but as we have limited applications in this test phase from those who want to use the EU Exit ID Document Check app, we read this information from both the Machine-Readable Zone (MRZ) (the two lines of text and number separated by < at the bottom of the passport page) and the chip if present.

Neither the MRZ nor the chip in the document include special characters such as Cyrillic script. This is in line with International Civil Aviation Organisation (ICAO) standard for passports that all EEA passports adhere to.

The ICAO standard provides translation matrices for each marking to the English alphabet, and it is intended that the digital status shown to individuals will follow the same format and display names in Latin script only. However, in some cases we are aware that Cyrillic characters are appearing within the digital status name, and we are investigating why this is happening so that this can be rectified. We will look to resolve this for existing and new users as soon as possible.

The private testing encouraged minor changes to the application process to help improve the overall customer experience. We will continue to make changes to the scheme during the current public test phase in time for the full roll-out at the end of the month.

5. Uploading large files e.g. multiple employment documents

There is a limit of 10 documents to be uploaded to prove residence, and we encourage applicants to use documents that cover as long a period as possible – e.g. annual bank statements. However, where necessary, a caseworker will contact applicants to ask for further evidence to be submitted separately.

6. Prevalence of issues with facial recognition scheme

At no point in the application process is facial recognition technology used.

Those that choose to use the app to self-verify their identity are requested to complete two steps that relate to images of themselves, first proving that it is a real person applying and not someone trying to use a photo and, second, supplying an image of themselves, usually self-taken.

All but a few applicants succeed first time with both steps, but many applicants choose to retake images of themselves even though their images meet validation, so they can choose a preferred photograph.

7. Application form updates for people who are not computer literate

Information provided by the applicant can be edited until the point the applicant completes the declaration stating the information they have provided is correct. The only exceptions to this are the identity details that are read by the EU Exit: ID Document Check app which cannot be edited as they have been populated directly from the identity document.

The application process also requires the applicant to validate a telephone number and email address to support secure communications and enable authentication of returning users. The applicant's phone number is validated at the beginning of the application process by sending a six-digit pin to the number that has been entered. The email is validated at any point during the application by clicking a link in a validation email which is sent to the user when they enter their email address.

Both the phone and email must be validated before an application can be submitted. Once the phone and email address have been validated, any changes must be made through the separate 'Update my details' service which incorporates steps to prevent fraud and misuse.

As stated above, digital support provided will range from telephone advice from our customer support centre through to face-to-face digital support provided at many locations nationwide, with a home tutor service also being available for those who require digital support in their own home. The Settlement Resolution Centre also stands ready to support people with any enquiries or issues they may have, with 250 call operatives on hand to provide support over the phone.

8. Suggestion for Home Office prompts to remind applicants to apply for their settled status

As set out above, we are considering whether it would be possible to implement a reminder system to prompt those whose pre-settled status is about to expire, and who haven't yet applied for settled status, to do so if they are still in the UK and intend to remain here.

9. Use of data received under the EU Settlement Scheme

Within the EU Settlement Scheme, in addition to an identity check, applicants' personal data is used in three main ways:

- Criminality and security checks;
- If a National Insurance number has been provided, real time checks with the Department for Work and Pensions and HM Revenue and Customs for evidence of residence in the UK (tax or benefit records); and
- On a case by case basis, sharing information with other organisations to verify evidence provided within applications to protect against fraud and the use of counterfeit documents (for example verifying with a university that the university certificate provided by an applicant is genuine).

This data sharing is designed to help applicants evidence their status in a quick and straightforward way by using data already held by other Government departments.

The Home Office may also process the information provided in other ways in order to fulfil its legal and official functions. This could include, for example:

- If, in the future, the individual applies for UK citizenship;
- If we find evidence a significant crime has been committed;
- If we discover an immigration offence (like a sham marriage) is being committed; or
- To allow the Home Office to carry out its safeguarding duties.

This is set out in more detail in the Borders, Immigration and citizenship System privacy information notice (<https://www.gov.uk/government/publications/personal-information-use-in-borders-immigration-and-citizenship>).

10. Statistics/ data on the number of EEA citizens in the UK

Home Office internal analysis estimates that the total number of EEA citizens and their family members resident in the UK by the end of the planned implementation on 31 December 2020, and eligible to apply for the EU Settlement Scheme, is likely to be between 3.5 million and 4.1 million. Analysis uses data from the UK's Labour Force Survey (LFS)¹ and related Annual Population Survey (APS) alongside data from the International Passenger Survey (IPS).

There were 159,000 applications for citizenship in 2018 (with 47,000 from EEA citizens), which is a 12% increase on the previous year. However, this is still 32% lower than the recent peak in 2013 (233,000 total applications) which was sufficiently resourced.

The number of documents certifying permanent residence that have been issued to EEA citizens (a requirement for most EEA citizens that wish to apply for British citizenship) has increased significantly over the most recent two years, from an average of less than 10,000 per year between 2006 and 2015 to around 150,000 in 2017 and 75,000 in 2018. This surge in permanent residence applications has not been reflected in citizenship applications from EEA citizens.

I would like to reiterate that the EU Settlement Scheme has already concluded over 135,000 applications, 30,000 in private beta tests and the remainder since 21 January 2019, so we are approaching the equivalent number of decisions on permanent residence applications made annually in the approximately two months that the scheme has been in public test.

While settled status under the EU Settlement Scheme will mean an EEA citizen is eligible to apply for British citizenship, there is not sufficient evidence to enable us to estimate how many are likely to do so. Unlike documents certifying permanent residence and citizenship, there is a requirement for EEA citizens to hold settled or pre-settled status by

¹ The Labour Force Survey, which is conducted by the UK Office for National Statistics (ONS), is the largest household survey in the UK and is designed to be representative of the population. It includes those deemed resident at private addresses but does not cover most communal establishments. Its purpose is to provide information on the UK labour market, but it includes data on a variety of other variables such as country of birth and nationality.

the end of June 2021 (or December 2020 under a No Deal scenario). There is low propensity to date of EEA citizens that have been issued permanent residence to apply for citizenship, and this behaviour may be comparable for those that will be issued with settled status.

We will continue to review our resources to enable us to respond appropriately to any future variations in volume of citizenship applications.

11. Maximising the value of data held by HMRC and DWP when considering applications

The applicant is not required to provide their National Insurance number and therefore HMRC and DWP data checks are not mandatory and they are only used to benefit the applicant as a means of determining whether an application can be granted status under the scheme without any further evidence of residence being required from the applicant.

In the public beta phase, which commenced on 21 January 2018, nearly three quarters of all cases decided by the end of February did not need to provide any additional evidence of UK residence, as they were able to rely on the results of these checks or on holding a valid permanent residence document or existing indefinite leave to remain.

But not all data held by HMRC or DWP can be deemed evidence of continuous UK residence. For example, dividends paid to a company director or rental income declared through a self-assessment return do not require the individual to be resident in the UK, and therefore cannot be deemed evidence of meeting the eligibility requirement in respect of continuous UK residence. Similarly, certain benefits paid by DWP are 'portable' which means the recipient is not required to remain resident in the UK to continue claiming them.

The data held by HMRC and DWP is checked and, where there is a record against a qualifying income or benefit type, it is counted towards the period of residence. Where there are no suitable records, or where these demonstrate a gap, the applicant is asked to provide further evidence of their residence in the UK. We accept a very wide range of documents, and work constructively with applicants to help them establish their UK residence from the evidence available to them.

We continue to monitor the effectiveness of the matching records and the results they produce and have identified a number of reasons why data in part or whole cannot always be returned in this public test phase. For example, if incorrect / varied biographical information is supplied by an applicant or held by HMRC or DWP – we must ensure that the records returned are for the applicant and not another person.

Prioritising why data does not match what is expected in all cases would change the focus of the scheme from granting status to investigating the data quality of employers, or of HMRC or DWP, and would cause unnecessary delays for applicants. I am sure that all on the Committee share with me the desire to keep the application process simple to use and quick to provide results.

In most cases it will be far simpler and more straightforward for applicants to submit other evidence to prove their UK residence, rather than seeking to resolve why data has not matched. It is already the case that applicants, like anyone else, can ask any organisation including government departments what data is held about them and get incorrect information rectified as per Article 16 of the General Data Protection Regulation.

I want to thank the Committee for its work on these important matters. Securing the rights of citizens has always been our priority, and I hope the Government's response above assures you that we are committed to helping vulnerable and hard-to-reach individuals to obtain their status under the scheme. Nonetheless, we will continue to keep the situation under review as the scheme is fully implemented.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Javid', with a small comma at the end.

Rt Hon Sajid Javid MP