



Select Committee on the European Union

Justice Sub-Committee

Corrected oral evidence: Brexit: citizens' rights

Tuesday 22 January 2019

2.30 pm

[Watch the meeting](#)

Members present: Baroness Kennedy of The Shaws (The Chairman); Lord Cashman; Lord Cromwell; Lord Dholakia; Lord Judd; Earl of Kinnoull; Baroness Ludford; Baroness Neuberger; Lord Polak; Baroness Shackleton of Belgravia; Lord Wasserman.

Evidence Session No. 4

Heard in Public

Questions 28 - 35

Witnesses

[1](#): Rt Hon Sajid Javid MP, Home Secretary, Home Office; Glyn Williams, Director General of Borders, Immigration and Citizenship System Policy and Strategy Group, Home Office.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Sajid Javid MP and Glyn Williams.

Q28 The Chairman: It is very nice to see you, Mr Javid. Thank you very much. We were pleased by the announcement that charges are going to be removed from applications for settled status by European citizens living in this country.

This is familiar territory for you, but, for the benefit of the general public, this session is open to the public. A webcast of the session goes out live and is subsequently accessible via the parliamentary website. A verbatim transcript will be taken of the evidence and put on the parliamentary website.

A few days after the evidence session you will be sent a copy of the transcript to check for accuracy. We would be grateful if you could advise us of any corrections as soon as possible. If, after the session, you want to clarify or amplify any points, or you want to add anything, you are of course welcome to do so by way of supplementary written evidence.

We were relieved to see that the funding issue has been resolved favourably for those making an application. The initial advertising for settled status that was put out by the Home Office was heavily criticised. The editor of the *Spectator* described the tone as “disgusting”. That was not some wild left-wing magazine; it was the *Spectator*. The *Financial Times* published an article that described the scheme as “Orwellian”.

When you appeared before the Committee last June, you agreed that the Home Office messaging should seek to embrace EU nationals in the UK. In those circumstances, why did the advert start by saying: “If you are an EU citizen living in the UK and want to stay in the UK after December 2020”, this is how to do it? Did you personally sign off on that advert?

Sajid Javid MP: I will come to that question, but if I may I will make a couple of remarks. First of all, thank you for welcoming the change in the fee arrangements. I would like to say that it was in preparation for me appearing before your Committee, but there were wider considerations.

The Chairman: I am glad that we frighten you so much.

Sajid Javid MP: Look at the impact you are already having.

Thank you for the invite to appear before the Committee, and for the scrutiny that you provide of this and many other issues. I very much welcome that, especially on the all-important issue of EU citizens’ rights in the UK. As we know, and as you have just alluded to, many of them may understandably be concerned about what the future holds, whether there is a deal or no deal. Hopefully, we can go through much of that today.

As I said soon after I became Home Secretary, the UK Government in their entirety hugely value the contribution that every single EU citizen has made in the past and continues to make to the UK. In many cases, they are part of our family, and they

are clearly part of our society. They make economic and cultural contributions in countless ways. What they provide for our country is invaluable.

That is why we have set out a system that is absolutely clear, whether there is a deal or no deal, in all eventualities, and hopefully we will learn more about it today. We very much want them to stay, so we want to make it as easy and as straightforward as possible. That also cuts to the cost issue, for example, so I am glad that the Government were able to make a move on that. That is very much our position as we look into this.

That brings me specifically to your first question about advertising and the social media advert in December that you referred to. The latter part of your question was whether I signed off specifically on that advert. I did not see that particular advert in advance, but I have no problem with it, despite how it was received in some quarters. Let me explain why.

The reason is simply this. The Committee will know that I am Home Secretary because of the Windrush problems. That is why I am Home Secretary.

The Chairman: I remember so well the way we received with such enthusiasm what you said when you came. You said very powerfully that you were going to change the culture inside the Home Office. You were going to make absolutely sure that the whole atmosphere would be very different and that that situation could never happen again, and that on these issues you would be embracing the needs of the people who came to this country.

Sajid Javid MP: That is exactly right. I have just set out exactly what I think, and the whole department thinks, of our EU friends who are settled in this country. We very much want them to stay and we want to make it as easy as possible.

Turning back to the advert, I mentioned the Windrush problems because I am acutely conscious of what went wrong with Windrush. As I have said before in Parliament and in Select Committees, as we continue to learn the lessons—proper independent lessons-learned work is also being done—one of the most obvious lessons is that there was a mistake under successive Governments. It goes right back to the change in the status of individuals from the Commonwealth who had settled here.

Like EU citizens today, they were legally here and had every right to be here, but they were not at that time British citizens. They were here under the citizenship of, say, a Caribbean Commonwealth country. When the Immigration Act 1971 was passed and changed their status, nothing was done by the then Government and subsequent Governments to document the change in their status.

Who knows why it was not done? It was probably a perfectly innocent thing. Nobody thought that it might turn out to be a problem in the future, but clearly it turned out to be a massive problem many years later, starting in the 2000s but continuing in recent years under successive Governments. We found through the

historical review of those affected by the Windrush situation that almost half of those who were most affected were affected under the Government before 2010, and many later. It was under successive Governments. The core of the problem was that they were not properly documented. That was the fault of the authorities and no fault of the individuals at all. We cannot have such a situation again.

There is a real parallel with where we are today. Right now, here today, we have the opportunity as the Government, and all of us as legislators, to make sure that we learn from the mistakes of the past. That means that we properly document the status of EU citizens who are here today. Whether we like it or not, when we leave the EU, with either a deal or no deal, at some point they will have to have proper status so that they have no problems in the future, and can live here, work here and continue their lives here, their children can continue attending schools and they can access public services.

That requires proper documentation. We cannot have a situation in the future whereby we are not able to identify the cohort of 3 million plus who were here before exit from the EU, or at the end of the implementation period if we have a deal, and the EU citizens who continue to arrive under new arrangements after that. That requires them to register.

Here is the challenge. If we do not send out messages that make it clear that people need to register and take part in the process, the risk we run is that people feel there is not much pressure on them, they do not have to do this, and over the couple of years of the registration period they do not bother registering because they never felt the pressure.

I agree that there is a balance to be struck, but for those who criticise the advertising and the message you read out—I do not have it here, but I think you said, “If you are an EU citizen and you want to stay—”

The Chairman: “If you are an EU citizen living in the UK and want to stay in the UK after December 2020”, you must do this.

Sajid Javid MP: And that is the correct message. It is a factual message: “Please register, because if you do not register the risk is that we will have another Windrush”. I am not going to allow that to happen on my watch. We obviously have to be sensitive. We have to do it in the right way, but we have to be clear that the purpose of the scheme is that we avoid problems in the future.

The Chairman: I understand that. The question mark was about the tone.

Baroness Shackleton of Belgravia: Home Secretary, thank you for that explanation. I remember very vividly your evidence before us in June. I said to you, “Can you not change the emphasis from, ‘You will be lucky if we keep you’, to, ‘Welcome’?”

You told us that you were the descendant of a bus driver and you felt very welcome. I am the descendant of somebody who sifted rags many years ago and I have always felt welcome. I completely understand that, for the avoidance of a repeat of

Windrush, it is essential that people do this mechanical registration; it is like collecting a passport. I absolutely understand that, but it is about what has been lost in the emphasis, “You are guilty until you sign off on this form, which will rectify that”, as opposed to, “We are delighted to have you, so could you please sign the form to avoid problems in the future?”

It is this business of doing people a favour, yet they are doing this country enormous favours by contributing in all the ways you have just suggested, from builders to doctors. We rely on a whole range of people in this country who have given much more than they have ever taken out. It feels that we, the establishment, or the people doing this census, as it effectively is, are in some way interrogating them for the purpose of making them feel lesser. We should be grateful to these people and acknowledge their contribution. We should presume that they are here legitimately, but could they please fill in the form to make sure that in future times we avoid a problem?

When the £65 was taken off the table, there was a fantastic opportunity to make some mileage out of that and to say, “We recognise that it is not right for legitimate stayers to have to pay, so in the future we are not going to do it”, and maybe suggest that people who have already paid have the money refunded as an acknowledgement, either to themselves or to a nominated charity. People are generally quite impressed when others say sorry. The Government could choose six charities and they could stick it in a box. If I had paid the £65, I would be very upset now not to have some recognition that I was trying to do what I was asked to do, and I did it quickly.

There are two things. Can you please do something for the people who felt the urgency and imperativeness of doing it, and recognise that it is not an insult because they are doing us a favour?

Sajid Javid MP: I agree with everything you have just said, Baroness Shackleton. First of all, for EU citizens who are here, we are not doing them a favour. I like your language; they are doing us a favour already by having come to Britain in the first place and doing what they do, whether it is adults who are working or their children who are culturally enriching our own children. They are very much part of our community.

I know we are not talking about the immigration White Paper today, but since I last met the Committee we have published the White Paper, just last month. In the foreword and the way we present it, we say, as I have said in Parliament, that this country is proud of its history of immigration and how it has enriched our country, whether they are Europeans, my parents, your family or others. That is very important for us going forward.

Baroness Shackleton of Belgravia: Does the form say “Thank you” anywhere on it?

Sajid Javid MP: Which form?

Baroness Shackleton of Belgravia: The form they are asked to complete. “We are grateful to you for completing this form. We are grateful to you for your contribution. Please fill out the form to avoid problems in the future”.

I had great faith in you, and you were like a breath of air when you came to see us in June. That tone does not seem to have found its way down to the actual form.

Sajid Javid MP: Maybe we can go into the process for most people a bit later. There are options for people, but it will be an online process. It is what I would describe as very user-friendly and forward-leaning. I think the tone is correct.

Baroness Shackleton of Belgravia: But why do they actually have to do it in the first place when they have contributed? It does not seem to me to have got through, which is why all those Twitter messages and the *Spectator* decided that it was not very welcoming.

Sajid Javid MP: The process itself is very friendly in its approach, as it should be. I have seen it myself. You mentioned the decision that the PM announced yesterday on waiving the fees. She said precisely what you have just suggested, Baroness Shackleton. First of all, she announced the decision, which I think was absolutely correct and very welcome. She said that one of the reasons the Government decided to do that was to thank EU citizens here for their continued contribution. She said again, and we have to keep saying it again and again, that whether we have a deal or no deal makes no difference to their rights. She also said in her statement that if you have already paid the fee, under some of the testing it will be refunded in every single case.

Some of that message has already gone out. What we are doing, given that it was only announced yesterday, is putting a comms process in place to make sure that we emphasise that, all with the right tone.

The Chairman: I am going to move on. I think Baroness Shackleton is saying that the appearance is that the charge has been removed because of the criticism you received, and that it could have been done in the way that was suggested here and that you had agreed you would oversee as we went forward. It is a pity.

Q29 **Baroness Neuberger:** We have seen the online outreach. What other steps has the Home Office taken to advertise the scheme to EU nationals resident in the UK? We talked about that with some of your officials back in July. We are very concerned about people who are not comfortable online or who do not have online access. We are thinking about people who are now grandmothers or indeed great-grandmothers, and were Italian immigrants running cafes. There are any number of examples we could give you.

Following on from Baroness Shackleton, what work has been done to make people who have probably been in this country for 60 years feel really welcome?

Sajid Javid MP: You are absolutely right to raise that. I think we touched on it before. We have a comprehensive strategy in place for vulnerable citizens or

citizens who are less up to speed in using apps or technology of that type. There are a number of parts to that, but one of the main things we have done is to set up a user group of external stakeholders, a lot of charities and NGO groups that represent some of the European citizens. We have brought them together, first of all to take their advice and to make sure that we do not miss anything. Some of it might be targeted to elderly people, to disabled people or to people who do not speak English well enough.

We have dedicated funding to that. So far, £9 million of our budget will be grant-based support to external groups that we think in some cases are better placed to get through to some of the more vulnerable citizens. We will work with those organisations, utilising their networks, and we will provide them with funding.

The type of help they get depends on the kind of support they might need. For example, we expect the reaction of some people, when we get in touch with them, to be that they do not have a mobile or they are not comfortable doing the process themselves. We will suggest to them in that instance that we have places across the country, especially in libraries, that will be set up with a dedicated space to go through the application process. We can guide them there and there will be someone to help them. That might be sufficient.

Obviously there will be a hotline, so that somebody can guide you through the process if you have your own device. In other cases, such as an individual who is disabled in some way and is unable to go somewhere, it is better if someone comes to them. We will make sure that someone goes to them and visits them, perhaps even in their own home.

Baroness Neuberger: That is great, but the ads have already gone out for people doing it online. Some of those people will have heard about this. They will have family members who are younger, or whatever. Where is the information that we might have seen, for instance in community newspapers or newsletters, concurrently with the online process for those people? That seems to be missing.

Sajid Javid MP: We have an advertising campaign, and Glyn can talk specifically about that.

The Chairman: Maybe Mr Williams can fill in some of the gaps.

Glyn Williams: First, the tone of the communication before Christmas that you referred to was not meant to be threatening. It was meant to be factual. We have had a lot of feedback from the user groups that EU citizens actually want hard facts from us as to when they need to apply and how they need to do it. We had some negative feedback on that, and I apologise on behalf of the department if we got the tone slightly wrong. Obviously, we did not intend it to be in any way threatening.

As regards communications, it is important to remember that we have not fully started yet. We did two private beta phases in the autumn, and just yesterday we

started a public beta phase. The scheme will be fully open from 29 March. If we did too much advertising before the thing was open, we would be jumping the gun. We intend to ramp up the breadth and depth of the communications as we move through the year.

The communications will not simply be through social media or online. We also intend to use posters in transport hubs or key city locations, especially where we think there are high numbers of EU citizens. There will be radio advertising on local and national radio stations, something called video on demand across digital TV channels, and obviously social media. There will be a mixture. We will be aiming for a variety of different channels of communication.

Q30 **Baroness Ludford:** Home Secretary, in your introduction you talked about the rationale of the settled status scheme. You said it was partly motivated by the experience of the Windrush problems when those citizens were not properly documented. You talked about learning from the mistakes of the past.

Perhaps you could clarify whether, as I understand it, individuals who are granted settled status will get no documentation to prove their right to residence in the UK. If they want to get a job, open a bank account, rent a flat or access medical services, I understand they get a reference number. What does a landlord do, for instance? Do they contact the Home Office with a reference number and get something back?

Governments can change. Let us say that a future Government said, "We are going to change the system and have a new scheme where people have to reapply".

Those people will have absolutely nothing. The contention seems to be that everybody lives in the Cloud these days, but for things such as a passport, a driving licence, a marriage certificate or a birth certificate, people have a piece of paper. Those may be the only things where they absolutely need to keep paper.

In the light of Windrush, would it not be sensible for people to say, "I want a piece of paper that evidences my successful claim for settled status"? I cannot remember whether people who went through the permanent residence process, which did not have a long life, got a piece of paper. Those who apply for settled status may already have gone through permanent residence or some other kind of status.

The report on the second-phase pilot talked about confusion between a registration certificate or resident's card issued under EEA regulations, which looks very similar to a permanent residence document. Almost 1,000 people mistakenly believed that they had documented PR status or existing ILR. Is there not great potential for confusion in these circumstances? A very clear piece of paper that says exactly what people's status is would be helpful.

The Chairman: I am sure the Secretary of State has got the point.

Sajid Javid MP: Thank you. As you alluded to, it is a digital status system as opposed to a physical status system. To be clear, once you have gone through the process, your status is recorded electronically, but it is a permanent record that the Home Office will have of the individual, all their family members and their actual status. Of course, how much time you have to register depends on whether it is deal or no

deal. It is part of trying to make the system as straightforward, quick and simple to use as possible.

At the end of the process, once you receive confirmation you will get a unique reference number. That reference number will be secure. It will be a permanent record. You ask whether employers can access it. That is exactly what happens today when employers perform right-to-work checks, which they do on everyone. They will be able to access the online system. We foresee no reason why that system cannot work.

There may be some people who think they need a piece of paper that proves their status. Of course, if an individual really wanted a piece of paper, they could print out the electronic proof that they get, use it and keep it as extra security, but they will not need that. It is an electronically based system.

The Chairman: Secretary of State, I love your confidence. We know that one of the things we are fearful of as we go forward is cyberattack and the ways systems can be taken down, even accidentally. It will be one of the ways of waging destruction by foes of the nation.

You said that Windrush taught us that we cannot again have people being non-documented. You have to document the change in somebody's status. In the modern world, I suppose we could say that the word "document" does not mean "document", but people like to have something solid. I, for one, would. People will say, "That's because of your age", but I suspect that my children would too. I would be advising my children to get the bit of paper, so that when they are told, "But our system does not say that", they can say, "I am sorry, but just take a look at this".

I cannot see why some of the billions that are being spent on this could not be spent on creating a document that is then sent to people so that they have something confirming their status that they keep in their file of precious documents, with their birth certificate and their marriage certificate. It will be waiting for their settled status certificate.

Baroness Shackleton of Belgravia: Home Secretary, you are assuming that the employer has access to technology. What does an old lady wanting a carer do about somebody arriving in her house saying, "I'm fine. I'm ticketed"? She does not have a computer. I know we are dinosaurs, and we may consider them dinosaurs, but those people exist. It is precisely to avoid them being hoodwinked that they need something tangible to look at that is simple and straightforward. I understand that not everybody will want a piece of paper, but surely there can be an option that if they want one they can have one.

Baroness Neuberger: Indeed, I think they will need one. In the example of the carer, the person who is coming to be the carer has to show a DBS certificate, which is sent out and is a piece of paper. Should not the same apply, because the old person who needs the carer needs to see both?

The Chairman: This should not be seen as just about old folk, and everybody rolling their eyes about the non-tech-savvy person. Many employers say, “I want to see your passport”. That is what is happening now. People say, “I want to see your passport”, and that will happen in all kinds of organisations. I think you are missing a trick on this.

Sajid Javid MP: To take the example of a carer and someone wanting to see their status, remember that documents can also be forged. There are challenges either way, whether it is a paper system or an electronic system.

Baroness Shackleton of Belgravia: But you hand over to the employer the “forged” document. They can then hand it to somebody and say, “Can you check this for me?” There is nothing in this process for them to check.

Sajid Javid MP: But if you have your electronic digital reference number, they could ask someone to check that. I understand the argument about documents and settled status, but, over time, more and more of the work of government, not just in Britain but globally, will become electronic. One of the reasons it works is that it is much faster. It can be a lot safer. It can happen in real time, so you get your information back rather than having to wait for a document, not receiving it and then worrying.

The Chairman: Why do we need a passport? Why do we need a driving licence? There are ways to make those documents very difficult to falsify. Even raising that is suggesting the duplicity of the vast majority of people. Of course, among the vast majority of Europeans there might be somebody who tries to falsify a document, but it will be of a very minimal nature. People want a document so that they feel the comfort that that document gives them. It is not to stop you having your number on the computer; documents are validated by having that comparison done, but it gives comfort to the person.

Sajid Javid MP: Let me quickly answer those questions. You asked about a passport and a driving licence. Those have to be documented because there is an international standard. Every country requires that you have a passport for travel. Because we are setting a document standard for domestic use only, you can have a legitimate debate about whether it can be just digital or not. You could not apply that to passports and driving licences.

We may come on to the testing. We are now doing a much larger test that will be open to many more people, and as we roll out the testing we will get feedback. Hopefully, you will see that later. We have been getting feedback from users, and ultimately what matters most are the users and what they are comfortable with. As we get feedback, we have flexibility to change and adapt.

The Chairman: I am glad that you are expressing willingness to adapt once you have heard from people about what they really want.

Baroness Shackleton of Belgravia: Can I understand what the downside is of giving

someone a document? We have given you lots of reasons why we think it is a good idea. Why is it a bad idea?

Glyn Williams: Down the years, the Home Office has issued many different kinds of letters, stamps and documents of all descriptions. We have had a lot of feedback from employers and other people trying to check these documents that they do not recognise them. With the documents that we gave out in the 1980s or the 1990s, let alone the 1970s, it is very difficult to keep up and to know whether the documents are genuine. The feedback we have had from employers and others is that they would like to go to a database.

These days, if you for example hire a car and the car hire firm wants to check that you have a clean driving licence, it goes into the DVLA database and checks your driving record, because you are given a reference number by GOV.UK.

Baroness Shackleton of Belgravia: But you still have to produce your driving licence before you can pick up any hire car.

Glyn Williams: All you have to do in this case is go on to GOV.UK. You can do it on your mobile phone. You put in the reference number and it will all be there. Do not forget that you have to design cards. You have to make them fraud-proof. They are quite expensive to produce and send out. They get lost and have to be replaced. There is a whole industry for secure documents.

When we give them the decision initially, people will have a letter or an email from us saying, "Thank you for your application. It is successful and you have settled status". They will have that, but it will not count as a secure document.

In a database you are not constrained by the size of a card as to the amount of detail you put in. It is much easier and you can update it as circumstances change. You do not have to issue a new card to somebody; you can just update the database. We think this is the way forward, and that is the feedback we have had from users as well.

Baroness Ludford: Can you remind me what the legal basis and status of the database is? What will be the rules on data sharing from that database? For instance, how long will you retain scanned documents if other evidence of residence is supplied?

Glyn Williams: It is different from retaining evidence that the applicant gives us. It would just give the person's name, biographic details, a photograph and their status, and therefore their right to work in the UK. It will be fully compliant with all the necessary applicable data protection rules. The employer, or whoever is going into the database, will see no more than they need to see for the purpose of their inquiry.

Baroness Ludford: I am not sure that has entirely answered the question, but I cannot pursue it now.

You are going to have automatic checks against HMRC and the DWP. Will the applicant be able to see what data you have used from HMRC and the DWP, and be able to contest it? Maybe their documentation and records are incomplete. Will the applicant know? For instance, if they are rejected, will they be able to say, "Well, I do not understand that because I have paid national insurance for 10 years"? Will they be able to challenge?

Glyn Williams: We would say to them, "We have consulted on your employment record via HMRC and it shows that you have two years', three years' or 10 years' worth of tax records. Do you agree?" We give them the chance to contest.

Q31 The Earl of Kinnoull: I add my welcome to you, Home Secretary. We move to the settled status scheme, in particular the beta testing. A very good report appeared yesterday on the beta 2 test. Thank you for that.

I know you will be on top of the numbers yourself but, to set the scene for those who are watching, we were originally told that there would be 250,000 people going through the phase 2 testing. The actual number that went through was just under 30,000. The period it ran was from 1 November to 21 December last year.

On 14 January, on the figures on which the report was based, just over 9% of those applications were still not finalised in some way. At least 24 days after the end of the period, we were in some sort of holding pattern. It was not really working. Of course one is worried, or at least I am worried, that other types of people will be more difficult. This was targeted at people you would think were a bit easier to fit through the system. There is evidence in the report of quite a lot of manual intervention, with pop-up application centres at hospitals, where people were helping applicants go through the process.

We were told that the idea was that the system would be extremely online and there would not have to be much manual intervention, so I come to some questions for you, Home Secretary. First, how do you feel the system is performing generally at the moment? Secondly, have you done any assessment of the time it is taking for real human beings to go through the system? Are you satisfied with that?

Thirdly, could you say what the target rate is for going through without human intervention? In the report, you refer to 81% of applications being processed within a week. Is that a target? Are you happy with that, or are you hoping to get it a bit higher?

Sajid Javid MP: When we said 250,000 it was not an estimate of how many people might use it. It was just the eligible population. As a test, it was not open to everyone, because it might have become overwhelmed. We absolutely expected it to be a small proportion of the eligible population, because participation is entirely voluntary. The full system does not kick off until March. As you say, the number of people using it was roughly about 10%, or just under 30,000. No one expected 250,000; that was just the eligible population. We expected only a small proportion of them to use it, because it is on an entirely voluntary basis.

The purpose of this test, especially compared with the beta 1 test, was to give us more insight into how the process was going to work. Did we feel that our communications material, our guidance material, was properly understood? We learned things from the testing about file size and uploading photographs, because different people might have different software. There was something about the technical standard and outage. If you start doing it and you go off because you get disrupted, or you make a cup of tea and then come back, you do not necessarily want to have to start again. We also learned how the automated checks were working with HMRC in particular, and DWP; again, we want to make it as quick and as responsive as possible.

To put a bit more colour on some of the numbers, just under 30,000 used the system. You asked if I have been satisfied with it. I have. We are satisfied that we are where we would expect to be at this point, although I caveat that heavily. Eventually, millions of people will use the system. As you rightly pointed out, this was 30,000. It was more than the first test, but it is still a very small proportion of the number of people who ultimately will use the system. There is a lot more work to be done with testing, but as regards where we wanted to be at this phase the results are good.

To give a better sense of what I mean by good, more than 90% of decisions have been made as expected, with no cases refused; 70% were granted settled status, of which 15% were already holding valid permanent residence; 30% were granted pre-settled status; and 69% of cases were decided within the processing time limit of up to three weeks that we had set, with 81% in a week. You asked whether we would like to improve that 81% in a week, and we would. We would like it to be higher, but 80% is where we would expect it to be at this stage.

We had a question earlier from Baroness Ludford about whether people can challenge the result. For the first time we saw people doing that, which was good because there will always be some people who question the result, and 11 of the 30,000 did. There was an administrative review process in 11 cases and there are a further 13 cases pending. In the first 11 cases that we resolved, it was the same question, which taught us something. People were questioning whether they should have settled status versus pre-settled status. We had to explain that the difference was whether you had been here five years or less. In each of those cases, it was understood once it was explained.

Lastly, we check what is called the email validation process to make sure that we are speaking to the individuals who have identified themselves. We tested the ID process, when you put your passport next to the phone and it downloads data from your passport. We were very pleased with how that worked. We found that more than 500 different types of android-based devices were used, from 52 different device manufacturers. We were pleased with how the system was able to cope with all the differences.

The Earl of Kinnoull: There were about 9% in a holding pattern and unresolved after

at least 24 days. If that percentage was correct for the full 3.5 million, you would have more than 300,000 complex cases. Do you feel you are adequately resourced for that?

Secondly, paragraph 18 of the explainer about the UK-EEA EFTA separation agreement, dated 20 December, says: "In the UK, EEA EFTA nationals and their families can apply for a residence status through the EU Settlement Scheme". It would be very helpful if you could be clear about whether EEA EFTA people—from Liechtenstein, Iceland, Norway and Switzerland—can use the system today, and that paragraph 18 of the explainer is accurate.

Sajid Javid MP: Glyn will answer both of those.

Glyn Williams: First, on the question about the outstanding decisions— the 2,776 out of the 29,000—the reasons for that are given on page 3 of the report under the heading "PB2 performance data". For example, we had not been able to finalise the decision in various cases, because we were awaiting submission of a passport, where the chip checker had not been used. I imagine some people were travelling over Christmas, so they had not sent us their passport, or we were awaiting further information from them. It is not as if the Home Office had all the information and a backlog was building up. In those cases, we were actually waiting for further information to come through.

It is worth highlighting that 84% of those applying to us did not need to send us additional evidence. Many of them will not have sent us their passport either. If you go back to where we were in 2016 after the referendum, you might recall that we had a lot of complaints about our 85-page form. When people applied using that form, they sent us piles and piles of documentary evidence such as pay slips. I have seen them in Liverpool. In this case, 84% of people sent us absolutely nothing because it was all done online via HMRC. That is a very big step forward for us and quite a breakthrough for the Home Office, if I may say so.

On the EFTA countries—

The Chairman: We were given notice that you only had an hour, the Secretary of State. If you are prepared to go over a little bit, we can carry on with your answer to the question about EFTA, but I am very anxious that we get to some of the questions that are coming up.

Sajid Javid MP: Perhaps we could write to you with the answer.

The Chairman: If you can write a response to us about that, it would be really helpful. I am most anxious that you answer some questions about, for example, no deal and what happens in those circumstances.

I would like to move along as quickly as we can, colleagues. Lord Dholakia has a question that need not necessarily take much time.

Q32 Lord Dholakia: Home Secretary, I want to ask about the current trials on the settled

status scheme.

It is claimed that you are consulting on easy cases. What happens in relation to community engagement when people are unable to produce the type of documentation that would be required to prove they have been in this country for five years?

I ask this particular question, because one of the things I have come across in my previous investigations of immigration control and procedures is that officers have an insatiable habit of asking questions but put very little faith in the answers they receive. Windrush is an example of what has happened in the past.

What happens in cases that are rejected? Is there appeal machinery? Is there a method by which somebody other than your department will take a decision in relation to that individual?

Sajid Javid MP: One of the reasons we tried to set up a system that is as easy and as simple to use as possible, and that removes the need to send in documents and provide proof, is precisely that we have been learning lessons from the past. You correctly used the example of Windrush. We can now see evidence from the lessons learned process and some of the work that the department has done and the people it called in.

People had been sending in all sorts of documentation. We have seen examples where people said that they had lived and worked in the UK for many years. Sadly, in some parts of the department, the response was, "Well, you need to prove it. We are not speaking to HMRC". I thought that was entirely the wrong attitude, and we are trying to change that. I am trying to have a much friendlier Home Office that does the work that is much easier for the Home Office to do.

That is why it is right that Glyn highlighted the point that, in the biggest test we have done so far, more than 80% of people did not have to send in a single piece of documentation. Their ID was checked electronically with their passport via an app. If it was HMRC or DWP information, we were able to connect directly with the system in those departments and verify it ourselves without asking them to send in any proof.

You rightly asked what happens if someone cannot do that. For example, some people did not have access to the app for the ID check, so they sent in their passports. In most cases, we were able to send passports back on average in a week; they send in the document and it gets returned to them.

I mentioned an example earlier where people queried the decision. In every case we were able to resolve that. They can call up, or it can be done electronically. In cases where they want to take it further, we can exchange documents, but we are trying to keep that to the absolute minimum so that everything can be done electronically without them feeling that they need to send in information.

There is an appeals process. If there is a no-deal situation, it is a UK-only process. If it is a deal scenario, under the deal that has been agreed, citizens' rights are part of the withdrawal agreement. There is ECJ involvement and oversight of that.

Glyn Williams: The citizens' rights chapter of the withdrawal agreement we have agreed with the EU requires us to put in place a statutory right of appeal, so there will be recourse to a tribunal, and from there to the higher courts and, ultimately, the European Court of Justice.

The Chairman: It is one of the areas where the red line has had to become rather paler. European citizens will still have their right ultimately to go to the European Court of Justice if there is a conflict.

Sajid Javid MP: In a deal situation.

The Chairman: In a no-deal situation, we are walking away from the whole bang shoot.

Sajid Javid MP: We have to be specific on this. Not directly—

The Chairman: There is an arbitration process being created, but if there is an issue of law, it will be resolved at that higher level.

Glyn Williams: Under the withdrawal agreement there are dispute resolution provisions. From memory, I think they provide that a UK court—the Court of Appeal, for example—may choose to refer a question to the European Court of Justice if it thinks European law is engaged, or it may not. That is up to the court. If it refers the question, it is bound by what the ECJ says.

Baroness Shackleton of Belgravia: Do you mean the Court of Appeal or the Supreme Court?

Glyn Williams: I think the Court of Appeal can also make references to the European Court of Justice.

The Chairman: I do not want to get bogged down, but I think you will find that the High Court as well as the Court of Appeal can make a reference if it is on an EU law matter, but I do not want us to spend time on that at the moment because we are looking at a very specific thing.

Q33 Lord Polak: The no-deal scenario seems to be gaining some ground around the country, Home Secretary. Your policy paper on citizens' rights indicates that in the event of no deal EU nationals in the UK would only have until 31 December 2020 to apply for settled status. What would happen to those individuals, despite the very clear adverts you have produced, if they did not apply in time? Are you confident that the IT system will be able to register some 3 million people in the time available?

Sajid Javid MP: Yes. One of the reasons we are doing the testing is to build that confidence, but we are confident that the system is designed for the number of

applications we expect. In a no-deal scenario, it is worth keeping in mind that the cut-off date for new arrivals would be the exit date of 29 March.

In a deal scenario, more people would use the scheme because it would continue during the implementation period. In a no-deal scenario, for that reason there would probably be less demand. There would still be high demand but less than in a deal scenario, and that would certainly help to cope with the overall demand for the scheme.

It goes back to the very first question about advertising and encouraging people to apply. As has been said in the Committee today, we need to get the right balance between welcoming everyone and gently pressing that they must please apply.

The other thing to keep in mind, which is very relevant, is the immigration White Paper I mentioned earlier, which is based on the fact that the new immigration system we would have after freedom of movement has ended would begin in January 2021. By then, we would have to be in a situation where we can distinguish between this cohort and the new arrivals who come after the EU exit date in a no-deal scenario.

We are confident that there is enough time for people to register. One could also ask what happens if someone has just missed the deadline through no fault of their own, and there was some really good reason. As I said right at the start, I want everyone to stay. I want to make it as easy as possible. We will have to take a sensible, practical approach and make sure that no one misses out for any sensible reason. At the same time, we still have to press gently that there has to be a cut-off period for everyone's benefit, not least because as a country we can start our new immigration system on time.

Q34 Lord Cromwell: Secretary of State, it is nice to see you. Thank you for coming. If there is no deal, as you have said yourself there is no implementation period. Because of that, any EU citizens who come after 29 March will be outside the settled status scheme. I am thinking of people who may have been offered a job or a place at university that starts after that but who are not here yet. What will be their status in UK law when they come to the UK to take up that opportunity?

Sajid Javid MP: Part of the answer depends on any legislation that is passed between now and exit date. I am assuming a no-deal scenario, because that is what you asked me about. Specifically, what I have in my mind is the immigration Bill before Parliament right now. As you know, its Second Reading in the House of Commons was delayed. We expect to bring it back shortly, but I do not want to prejudge what Parliament will or will not do.

If the Bill is passed, there is one answer, which is that it would allow us to formally end freedom of movement. If I assume that for a second, it also means that we have to be very practical about that period; let us call it a transition period between exit under no deal on 29 March and the start of a new immigration system. As I have just mentioned, you will not be able to identify the difference between European

citizens already here and new arrivals who come after that. That is why I have already said, for example, that employer checks will be no different from today. You could not have a different system.

A transition system will be put in place. We will announce more details when we bring forward the Second Reading of the immigration Bill. The transition system will make sure that it takes full account of the fact that you will not be able to identify the two cohorts, so we need a proper system in place that allows us to transition from end of freedom of movement to a new immigration system.

Lord Cromwell: The main thing at this stage is that you recognise that there is a cohort of people who are anxious. They will be relying on your sensible pragmatism, which you referred to earlier, to get them through this. I am sure they are very confident in it.

You also touched on employers. There has been some confusion around whether employers are required to check. There were some conflicting statements back in October and in the summer.

Sajid Javid MP: It is clear, but you are right to highlight it and this is another opportunity to make it even clearer. As we sit here today, employers need to check everyone's right to work. That applies to British citizens. They need to check, if you say you are British and that is why you have the right to work, and satisfy themselves for everyone. That will not change. As I say, there will be more specific details alongside the Second Reading. We have made sure that, as far as EU citizens are concerned, employers will not have to do anything more than they do now, because we want the smoothest possible transition process. I think it is widely understood why that is necessary.

Lord Cromwell: Thank you for clarifying that.

The Chairman: I have just taken up a position where I was asked if I would bring my passport in. That is what I meant about this business that it can all be done in other ways; employers have their system and they want to see a document.

Baroness Ludford: Home Secretary, you talk about a practical scheme in what you call a transition. That is slightly confusing, because you do not mean transition in the sense of the withdrawal agreement but some kind of changeover. If the immigration Bill is passed, it abolishes the EEA regulations.

What is the legal status of people who arrive after 29 March in a no-deal situation, when we will not have a transitional implementation period? Under the EU withdrawal Act, those regulations are retained law, but as I understand it the immigration Bill abolishes those regulations. What is the legal status of people, even those who come before 29 March but have not done their settled status application? On what legal basis will both categories be here after 29 March if there is no deal?

Sajid Javid MP: Under the current system, everyone, with the exception of EEA citizens, requires leave to enter the UK. As you say, if the immigration Bill is passed and there is a no-deal situation, because freedom of movement would be removed, everyone, including EEA citizens, will require leave, but we would be in a position to have deemed leave for EEA citizens with certain restrictions. I will not go into what those are.

Because there will not be freedom of movement, it will not be exactly the same as it is today, but we have to be practical about what you have called the changeover from freedom of movement to a new immigration system—changeover is a good word for it. We will be setting out shortly how that would work in detail.

We have already decided that we want to make it as straightforward and as simple as possible for EU citizens. Today, for example, the only people who can use e-gates are those who already do not need leave to enter the UK: UK and EEA citizens. Once we leave, if there is no deal and if the immigration Bill has gone through, without a change in that process an EEA citizen will not be able to use the e-gate. We want them to keep entering the UK in the way they do today, through e-gates, so we will change the rules and regulations on that to make sure that they can continue to use e-gates and enter the UK as they do today.

I have answered part of the question about the right to work. They will have leave, but we will set out in detail shortly what that will entitle them to do and how long that leave will be.

Baroness Ludford: Will that need new legislation or an SI?

Sajid Javid MP: There is primary legislation in the immigration Bill and there are SIs alongside it.

The Chairman: Last but by no means least, Lord Judd.

Q35 **Lord Judd:** Home Secretary, I have found your answers today extremely interesting, as they were the previous time you came. They raise with me the question of the culture in the Home Office. It is a very large organisation with many people dispersed across the country. They have to live in a real community where their friends and the media are not necessarily sympathetic to the welcoming culture you want to create.

How are you winning the battle to make sure that the Home Office throughout the country is welcoming and positive? In this specific context, do you recognise that what is difficult to reconcile with your earlier statements is that the whole scheme in operation is in fact one in which the Administration lay down the rules and help with specifics for people who are playing by the rules?

What about the point raised by several colleagues that there are a lot of people who have given tremendous service to this country but are now elderly and vulnerable? They are not in a technological society. They do not understand the language of technology. This interesting and helpful report, to which there has

already been reference, is in the language of the technology world.

There could be many examples, apart from the old and the vulnerable, but let me give you one very specific example, or perhaps two. What about children in care who do not have passports or access to original documentation? What about people who have been trafficked? Do you really have a proactive, positive approach with caseworkers going out and finding such people, helping them to understand what is now required of them and helping them to achieve what you want to achieve? How far does it depend on their connecting with the system themselves rather than our going out in a welcoming spirit to make sure that they are included?

Sajid Javid MP: In answering that question, it is worth remembering why we need some kind of settlement scheme. It is a simple fact, but the genesis of all this is that because of freedom of movement we do not know who is here. We just do not know. There is a difference in some other EU countries. Some of them have had registration schemes for all foreign workers for many years, which is why the Spanish or the French can say with more clarity how many Brits they have. They often know where they live and so forth. As you know, we do not have such a registration scheme. We have honoured freedom of movement to the fullest, and people have come in to work and be students or whatever, so there is a necessity for the scheme. That is well understood.

To answer your question about how we approach that, it goes back to what we said at the start: we want to make it as straightforward and as simple as possible. I guarantee to you that if we had not developed an electronic scheme that people can use on a device and touch their passport in and not send in documents—we saw this in the testing in over 80% of cases—if it was a documentation thing with forms to fill in and send and a wait for them to come back, people would rightly complain. They would say, “It’s so bureaucratic and difficult. My documents are getting lost”.

Equally, at the other end, some people say, “This is too electronic. Maybe it’s a bit too simple. How can it be that I don’t get a piece of paper?” We understand that, but I think it is the right approach to make it as simple and straightforward as possible.

I am glad you have emphasised this, and it came up earlier: there will be people who are not familiar with technology, or there may be other reasons. They might be vulnerable. You gave a really good example that we have not touched on; they may be children living in care who need help. They are children and they need adults or someone overseeing them, so we are working with local authorities.

You asked me whether we had confidence that we are reaching out to these groups. It is absolutely part of what I mentioned earlier. It is part of working with external stakeholders such as local authorities, NGOs, charity groups and representatives of European citizens. We must listen to them to make sure that we leave no stone unturned in finding people.

Lord Judd: And trafficked people.

Sajid Javid MP: Absolutely. There are victims of crime and victims of modern slavery. Thankfully, the numbers are not huge, but even one is too many. We need to make sure that we are reaching out, even if it is just one or two people. We are working with law enforcement and others, because they might be aware of people who are vulnerable.

We are not just relying on ourselves; others know better how to reach out. That is why we have a £9 million programme of grants. People can keep applying for grants up to 1 February, which is the cut-off date. We are also allowing the organisations applying for the grants to bring people to us.

I said this at the start and I do not think it can be said enough: we owe a huge debt to every single European citizen who has come to our country and worked here. We have to make sure that we reach out to them all to make the process as easy and as straightforward as possible.

Lord Judd: We understand your personal commitment and good will, but how on earth could that impasse have arrived yesterday, with the announcement that the fee is being cancelled on the day it becomes public knowledge? How could that have happened if you had won the battle for the prevailing mores in the Home Office?

Sajid Javid MP: It is progress in that we managed to remove the fee. It is something we clearly wanted to do. There is a cross-government process for making these decisions, and the Government rightly agreed on this. It is another example. There need to be more, and more work will continue to be done as we roll out the testing and learn from it.

I can say this quite clearly now. If we had continued to have a fee, it would have become increasingly unjustifiable, because people are here and we should not be asking them to pay something to stay here. I think that would have been wrong. The right decision has come out of government and it is much more welcoming. Of course, people have to go through some kind of process to register themselves, for the reasons I gave, but we should not be charging them for that.

The Chairman: Secretary of State, I know your time is limited. There is a quick question from Baroness Shackleton.

Baroness Shackleton of Belgravia: Please could I ask you to reconsider a piece of paper? You cannot open a bank account without producing your original passport. You cannot do many things without producing a physical document. I cannot see a client without seeing a passport and somebody's ID as to where they live. Can you reconsider the possibility of having something as a comfort, which will not cost the Home Office anything? If they ask for it, would you give it?

Sajid Javid MP: We will absolutely listen to the feedback we get from the people who matter most—those the scheme is designed to work with. We will keep many things under review.

The Chairman: I want to say some things finally. I am an employer. Somebody comes to me and I am interested in employing them. Normally I would say, "Can I see your passport?", and then photograph the page and keep it in my own documentation. You are saying that I would be able to type their number into a computer. They would say, "I've got settled status". I would find the Home Office site and type in the number. What would come up? A photograph of the person I am seeking to employ?

Glyn Williams: It is GOV.UK.

The Chairman: And then what happens?

Glyn Williams: I think I am right in saying that you will see a photograph of the relevant person and biographic details of them.

The Chairman: If you did not have a photograph, it would be quite tricky, would it not, because there would be a market in numbers? I would have thought there would have to be a photograph.

Lord Cashman: It could be biometric.

The Chairman: There are a number of questions that we have not had time to pursue with you. We have dealt with the ones that are most urgent, but there are one or two that we would like to send to you in writing. We would be very grateful if Mr Williams could reply on those particular questions.

Sajid Javid MP: Of course, we would be very happy to do that. If any members of the Committee are interested in seeing a demo of the application process and how you touch your passport, it is very quick and can be done in a few minutes. We would be happy to arrange that.

Lord Judd: I have been to one such presentation, apart from what your officials have done in the Committee itself. I found it very good. I also found the commitment of the people doing it very impressive, but I still think that the question arises of whether there is support of Home Office staff throughout to become part of this attitude.

Sajid Javid MP: Thank you, Lord Judd, for what you have just said. If anyone wanted to see the demo who has not seen it, I am happy to arrange that through the Committee

The Chairman: That would be very helpful. Secretary of State, thank you for coming and thank you for giving us your time. It was very helpful indeed.