



European Affairs Committee

Uncorrected oral evidence: Citizens' rights

Tuesday 22 June 2021

4 pm

[Watch the meeting:](#)

Members present: The Earl of Kinnoull (The Chair); Baroness Couttie; Lord Faulkner of Worcester; Lord Foulkes of Cumnock; Lord Hannay of Chiswick; Lord Jay of Ewelme; Baroness Jolly; Lord Lamont of Lerwick; Lord Liddle; Viscount Trenchard; Lord Tugendhat; Lord Wood of Anfield.

Evidence Session No. 3

Virtual Proceeding

Questions 17 - 31

Witnesses

I: Kevin Foster MP, Parliamentary Under-Secretary of State, Home Office; Wendy Morton MP, Parliamentary Under-Secretary of State, FCDO Minister for European Neighbourhood and the Americas; Nicola Smith, Deputy Director, EEA Citizens' Rights and Hong Kong Unit, Home Office; Gabrielle Monk, Head of Euro and Settlement and EU Settled Status Customer Resolution Centre, Home Office; Gareth Roberts, Head of EU Department, Foreign, Commonwealth & Development Office.

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.
2. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk of the Committee.
3. Members and witnesses are asked to send corrections to the Clerk of the Committee within 14 days of receipt.

Examination of witnesses

Kevin Foster, Wendy Morton, Nicola Smith, Gabrielle Monk and Gareth Roberts.

Q17 **The Chair:** Welcome to this virtual House of Lords public evidence session of the European Affairs Committee, which is part of the citizens' rights inquiry we are currently undertaking. We are very grateful to both Minister Wendy Morton and Minister Kevin Foster for coming along this afternoon to assist the committee in these matters. They have brought with them some senior officials in the shape of Nicola Smith, Gabrielle Monk and Gareth Roberts. When they speak for the first time, could they very briefly introduce themselves? It would be very helpful to those watching online.

Kevin Foster MP is Parliamentary Under-Secretary of State at the Home Office with responsibility for the EU settlement scheme. Wendy Morton MP is Parliamentary Under-Secretary of State at the FCDO. She is the Minister for the European Neighbourhood and the Americas.

As this is a public evidence session, a transcript will be taken. We will send it to you and would be grateful if you could check it to make sure it is accurate and let us know in due course of any corrections that need to be made. We have quite a lengthy set of questions. I would request that both questions and answers are kept pretty short and crisp so that we can get through everything.

Perhaps I could start by asking Minister Foster to give a brief overview of his ministerial responsibilities in relation to EU citizens' rights and the EU settlement scheme.

Kevin Foster: Fundamentally, the EUSS and its operation falls within my ministerial brief alongside my wider work on the future borders and immigration system, because there is an obvious parallel between implementing the new points-based system and the end of free movement and making sure people get the status to which they are entitled under the EUSS. Effectively, from the Home Office point of view that is my day-to-day responsibility as Minister, working under the Home Secretary as the Secretary of State for the Home Department.

The Chair: There are quite a lot of other departments and public bodies with which the Home Office collaborates in the delivery of the settlement scheme. I wonder whether you could list a few of those—the important ones anyway—and characterise how successful that collaboration has been during the course of the scheme.

Kevin Foster: There is quite a broad range of stakeholders. I will start with some of the work we do with other government departments and then move on to the wider community of stakeholder engagements.

We have worked quite closely with DWP, HMRC, MHCLG, DHSC and our colleagues and friends in FCDO in particular. To give examples of that collaboration, many people have acquired settled status and pre-settled status by giving us their national insurance number so that we can access their tax records or national insurance contributions to show they have

been working in the UK. That proves residence in the UK and allows them to have status granted. In some cases we can grant status extremely quickly, literally within hours. That is the way it works and how the system functions.

As to what we have done to reach out to those who need to apply, we have run 350 events reaching up to 22,000 stakeholders. We have also worked very closely with local authorities, particularly around children in care for whom they have a responsibility and a responsibility to apply.

I could probably go on for quite a while about exactly how many individual groups we have engaged with. Probably the core of our community engagement is the 72 grant-funded organisations spread across the United Kingdom. We specifically fund them to support more vulnerable applicants. In addition to that, within the UK, as a complement to the engagement, FCDO deals with overseas Governments about UK citizens in the EU. We have engaged quite closely with delegations here, particularly those based in London, around their citizens and providing support to apply, getting messages out and in particular engaging with diaspora media to ensure that messages about applying to the EUSS are available in appropriate languages as well. That is quite a short summary. I could go on for quite a while.

The Chair: That is exactly the right length. I am very grateful. The final question from me before we move on is: in your view how successful has the interaction with DWP and HMRC been where you are interrogating their systems as part of the EUSS online? Has that been a success?

Kevin Foster: In helping us get to over 5 million grants of status, absolutely. We would not have got the sheer number of statuses granted if we had had to ask individuals to provide proof of employment or, fundamentally, tell us again something the Government already knew. That co-operation has been absolutely vital. To reassure members of the committee, we are looking at how we can establish those sorts of principles in the rest of the immigration system regarding things like proving your salary and income in the family migration setting, but, keeping focused on EUSS, that co-operation has been vital. If we had had to go through every single case to check data and get evidence, it would have slowed things down.

As for reaching out to the most vulnerable, the role of local authorities with those they come into contact with across the UK has been significant in ensuring that people know they are able to apply and engaging directly with communities on the ground. We appreciate that not everyone will rush to engage with the Home Office in particular communities, but a trusted local authority or community group has been vital in encouraging people to get their applications in. I think it is safe to say that, without the partnership-working we have had with other government departments, with local government and community stakeholders more widely, we certainly would not have had the type of success we have had in the sheer volume of applications we have received and managed to decide on.

The Chair: I am very grateful. We will move to my colleague Lord Lamont.

Q18 **Lord Lamont of Lerwick:** Good afternoon, Minister. You must be more aware than anybody else that we are just over a week away from the deadline for applications under the settlement scheme. What is the Home Office's latest estimate of those who have still yet to apply? Is there anything you can do at this late stage? What about the possibility of an extension?

Kevin Foster: To take the last point first, we will not be extending the scheme. We believe that the sheer volume of applications we have already received and the number of statuses already granted speaks for itself. The scheme for applications has been open for over two years, which is longer than comparable periods in other EU states. However, it is hard to put an exact estimate on who is eligible to apply. People try to put estimates on it based on the population of EEA citizens in the UK, but the EUSS goes wider than just EEA nationals because of some of the derivative rights that allow non-EEA nationals to apply. All our estimates, projections and work engagement we undertake indicate that the vast majority have now applied and have secured status, as attested to by the sheer number of statuses we have granted.

Lord Lamont of Lerwick: What is the situation of people who fail to apply? Will you deal with them sympathetically? Is it still possible to deal with them?

Kevin Foster: In line with the citizens' rights agreement, we will accept late applications where there are reasonable grounds. On 1 April we published quite a lengthy list of situations that we would regard as reasonable grounds for a late application. That is a non-exhaustive list. We have been clear that we will deal with each individual based on their circumstances.

To give a couple of examples, in the case of a child where an adult or local authority should have applied for them before the deadline, or someone has lived here for many years and is elderly and someone else may have been responsible for assisting them, or they struggle with digital, we would see those as reasonable grounds for a late application. To be clear, there is no time limit to that period. An example I have given is a child aged five in care today whose authority did not apply for them. If at 18 they go for their first job and realise that it had not been done, we would still regard that as a reasonable ground for a late application to the EUSS even though it is 13 years later.

The Chair: I will ask Lord Jay to come in here.

Lord Jay of Ewelme: Welcome, Minister. Can I follow up one point Lord Lamont made at the end of his question? A number of us saw a report in the *Times* yesterday to the effect that one in six EEA citizens was claiming benefits and about 130,000 are yet to apply for settled status, and, if they do not apply, they risk losing their right to claim benefits. Do

you recognise that figure of 130,000? I was encouraged by what you said earlier about what the Government are doing to encourage people to apply. Do you see some of those 130,000 people falling through the net, not applying and not being protected and, therefore, having their benefits withdrawn from them perhaps because they are old, not so good at languages or infirm?

Kevin Foster: I saw the report referred to. The headline said that people would lose their benefits next week. To be very clear, people will not be losing benefit payments on 1 July, although cases are dealt with directly by DWP. We have worked with the Department for Work and Pensions and HMRC to write to people whom we believe are EEA nationals and may not have applied for EUSS. There is a small number in there who are also naturalised British citizens. If you are a naturalised British citizen, or you hold ILR from previous systems—we could be here a long time pointing to all the examples, but there are people who were here before free movement and applied to their nations and received ILR under UK law—you do not need to apply.

There will be a second process after 30 June when we do another data-matching process to write again to encourage people to apply. To go to the example you have just given, if someone is elderly, or perhaps has a power of attorney or deputy position in place, we will inherently see that as reasonable grounds for a late application, and we will signpost them again to the EUSS. I think it is our intention to give them 28 days to make another application. After that, we would advise DWP and HMRC, but they would then take them on as individual cases; they would not be the subject of just a block removal of support, given the type of situations we could be talking about.

Lord Jay of Ewelme: There will not be people who suddenly find their benefits are withdrawn because they have not applied. You will make certain that does not happen. Is that what you are saying?

Kevin Foster: I think the implication of the headline was that on 1 July people would suddenly see their benefit payments cease. That is not going to happen. The next stage would be to work after the deadline. We are receiving large numbers of applications, and since those letters went out we saw an uptick in people applying. We want people to apply now; we do not want to catch people out after any deadline. Therefore, there will be a second letter that alerts people to it. They will need to check that people are British citizens, or if they have ILR under previous schemes, in which case there is no requirement for them to apply. Of course, for Irish nationals there is no requirement to apply at all.

Lord Jay of Ewelme: Following up something Lord Lamont said, some of our witnesses told us that, given the circumstances of Covid-19, an extension of the settlement scheme for some six to 12 months would make a lot of sense. For example, the Netherlands, which like us has a constitutive system, recently extended its application deadline from 30 June to 1 October. To be clear, is it right that you thought about this but decided not to?

Kevin Foster: We have decided that we will not be looking to extend the deadline. We believe that with the sheer number of applications we have had and the fact that I understand our system has been open for longer than the system in the Netherlands—FCDO will be more familiar with the position for UK nationals in the EU—our focus is, first, to get people to apply before the deadline next week, and, secondly, to ensure that there is support available. Some of our grant-funded organisations will continue until September to help support vulnerable people to make a late application after the deadline. To be clear about loss of benefits, there would be no loss of state pension even with no application because of the way that system works.

Lord Jay of Ewelme: The latest statistics from the Home Office on the settlement scheme show a disparity of about 300,000 people between the number of applications received and the number concluded. Can you tell us how many of these are pending applications and what legal safeguards there are for those who apply before 30 June but do not receive a decision until after 30 June, just to be sure they do not fall into some ghastly channel?

Kevin Foster: To start with the last point, it is good to have the opportunity to reinforce this. Anyone who applies before the deadline will have their rights protected while the application is pending. That is set out in law. That is not just a commitment made in Parliament; it was set out in law last year. For clarity, their rights are protected up until the decision and any following appeal, because there are some appeal rights that attach to EUSS applications. Similarly, that takes them through, and obviously if there is a grant of status that resolves the matter completely.

As for work in progress, we are receiving a very large number of applications at the moment, which we absolutely welcome. I want to get as many people through the door before 30 June as possible. In recent days we have received over 10,000 applications every day. I reassure the committee that our systems have handled a lot more in past days. Back in December, on one day nearly 50,000 applications were received into our system. When an application is received, one technical point is that it needs to be validated; it just needs to be submitted. There is a slight issue around ID, but, to be clear, we are being generous on this particular point. That definition would help, not hinder, those applying. They will get a certificate of application and, when used alongside the Home Office checking system, that proves their right to work, rent housing and apply for eligible benefits. It will operate in a similar way to how people prove their status, if they have already been granted status. If you get your application in before the deadline, your rights are protected while it is pending; and that is in law—it is not just a commitment.

Q19 **Baroness Jolly:** The Home Office's guidance on reasonable grounds for late applications to the settlement scheme states that late applicants should be given the benefit of the doubt, but only "for the time being". Could you give us more clarity on how long this approach will last? Why

not give the benefit of the doubt on a more permanent basis?

Although EU citizens can submit late applications, they lose many of their rights in the interim period until their application is approved. Has the Home Office considered a legal safety net for those who miss the deadline and, if not, why not?

Kevin Foster: As for the guidance, it is non-exhaustive. There are quite a number of examples listed and we have made it clear that even those are not the final definitive number of statuses we would take. Generally, we will work with an applicant to see whether they have status that we can grant. The classic example is looking to see whether they have tax records, national insurance records or other records of their presence in the UK. Our intention for the long term is to take a pragmatic approach that is compassionate and fits the circumstances of the individual concerned. To give some reassurance, that is our general commitment going forward.

The longer we move away from the deadline, the greater the chance that there are people who were not here before 31 December, and we will need to engage to ensure that it does not just become a route to make an application where there is absolutely no record, or where it is very obvious that the individual was not in the UK prior to 31 December. Given the particular restrictions on international travel over recent months, the vast majority of EEA nationals in the UK arrived here before 31 December. Therefore, our procedure and stance will reflect that, as Members would expect.

As for the position of those with late applications, we believe it is appropriate that there is a difference between those who apply on time and those who apply going forward. In our view, we are not required by the withdrawal agreement to provide specific rights to people who make a late application as such. However, we will have protocols in place, as we already do, to escalate decisions where we may need to make a quick decision, for example where somebody needs to access urgent care services, or where they need to take up a job. Similarly, we will also make sure that we have processes in place that can effectively and quickly deal with applications touching on matters to do with the health service. Free healthcare applies once the application is made, and once a successful decision is made it will apply from the start of treatment.

We have looked carefully at what the position should be. Obviously, we want a balance to make sure that our friends and neighbours who came at the time of free movement are able to secure status, but, similarly, in years to come, the position will be very different for an individual who was not resident in the UK who makes an application, and it is very clear that they were not resident in the UK before 31 December. However, at the moment it is very obvious that the overwhelming majority were here before 31 December, and we will still give them the benefit of the doubt. For the sake of argument, if it was very obvious that someone was here in the early part of 2021 and stated they had been here from the very

late part of 2020, we would be likely to give the person the benefit of the doubt on a more permanent basis.

Baroness Jolly: Thank you very much.

Q20 **Lord Liddle:** Welcome, Minister. On first impressions, it seems to me that this is something of a Home Office success in terms of the numbers that your scheme has been able to deal with. However, in our discussions one of the points that has been made to us is that there is a difference between the rights people who are granted settled status will have and the rights that are available to them under the withdrawal agreement. Do you recognise that to be the case? If so, what is the logic of having these differences? Do you anticipate any difficulties as a result?

Kevin Foster: No one has any lesser rights than they would be entitled to under the withdrawal agreement. The EUSS's eligibility criteria are very different from the specific rules around the free movement regulations. That is because it is much more generous. You only have to prove residence in the United Kingdom; it is a much lower threshold than, for example, proving you were here exercising your freedom of movement rights to work or study, that you had insurance in place and everything else. There is much wider eligibility for the EUSS, because, effectively, if an EEA national is living in the UK, they qualify and that is it. They just have to prove residence. We are slightly more generous than the provisions of some of our own ILR schemes as well, hence we suggest that some EEA nationals who hold ILR under older schemes upgrade to the EUSS.

As for pre-settled status, it reflects the positions people would have had under the EEA rights, the core difference being that the EUSS is more generous in that you need only to prove you are resident; you do not need to prove which free movement right you are exercising. First, that makes it much simpler for those covered specifically by the withdrawal agreement who have free movement rights; secondly, it means that people who have lived here for a long time and are our friends and neighbours can also have status under the EUSS rather than getting into some quite nuanced arguments about whether they were exercising free movement rights.

Lord Liddle: Does that mean that people who were resident here exercising their free movement rights and were out of the country at the time of the withdrawal agreement and want to come back still have those rights?

Kevin Foster: In some cases it is possible to make an application from abroad. The vast majority of people have made applications not by popping off to a visa application centre or anything like that; they have made them via an app using their passport, so it is possible to make an application, again provided you have had residence here.

We are conscious that there are people who have left the country due to the Covid-19 situation. For the sake of argument, let us say you have

been working in a hospitality business that has been closed and, understandably, you have gone back to live with family. To be clear, the eligibility is taken to be residence before 11 pm on 31 December; it is not physically being in the United Kingdom at 11 pm on 31 December. That would produce some quite bizarre outcomes. For the sake of argument, someone visiting family for new year would suddenly find themselves ineligible. We have been quite clear on that front. We have published some concessions. I would be more than happy to send to the committee details about what we are doing to reflect the fact that some people have gone back to stay with family, particularly over the past few months of the year. Maybe they have been caring for a relative who is unwell. Again, that is not dissimilar to some of the concessions we are putting into the wider immigration system to reflect the extraordinary period we have been through and the severe restrictions on international travel at the moment.

Lord Liddle: But you do not expect this to be a contentious issue in future.

Kevin Foster: The EU raised with us the philosophical point between the true cohort and the extra cohort, but for us, to be honest, it is about being more generous to EEA nationals who have come here under free movement. If we sat down and asked most EU nationals to define the exact principles of free movement and exactly what does and does not qualify, very few people would be able to answer, so we felt it right to be much more generous in our approach and just make residence the criterion, so that we did not end up with perverse outcomes. We do not see any negative outcome purely because someone was not present at 11 pm, provided they had taken up residence beforehand. That is the key. How long their residence has been beforehand will determine whether they are granted settled or pre-settled status.

Lord Liddle: Thank you, Minister. That is very helpful and clear.

Q21 **Lord Faulkner of Worcester:** Minister, thank you so much for coming to talk to us this afternoon. I think the answers you are giving are fairly reassuring and go some way to answering the slightly more difficult question I am going to ask. I refer to the alarm some of the witnesses in our inquiry have expressed about the fact that hostile environment policies may be rearing their head in the way EU citizens will be treated after 30 June. Today is Windrush Day, as I am sure those in the Home Office are well aware, so avoiding a hostile environment is, I am sure, something you would like to do as much as everyone else. The concerns people have expressed are ones that demonstrate very substantial stress and anxiety. What reassurances can you give us that they need not be worried?

Kevin Foster: I would generally point to our wider approach to this—for example, the generous criteria: residence and not free movement rights—and the existence of the EUSS itself. One of the big lessons we have learned since the 1970s is that granting lots of people status based on them being able to say they lived here on a particular day worked for

a period of years after that happened, but how many of us would be able to prove, if asked today, exactly where we were living 20 or 30 years ago? The difference with declaratory schemes is that you have to try to do that.

I can give the example of the BNO scheme in the 1990s. Today, 24 years later, we know exactly who has BNO status, and that made it very easy to introduce the BNO visa earlier this year.

To give reassurance, what is our general approach going to be? I have already touched on welfare benefits. I will not cover those again. If, for example, an EEA national is encountered on, for the sake of argument, 5 July by immigration enforcement and they do not have EUSS status and it appears very likely that they may well have status, we will not issue our normal immigration enforcement notice. We will issue them effectively with an EU settlement scheme notice giving 28 days to make an application. It will include details of the settlement resolution centre. They can phone for advice and even make an application if needed. We can also point people towards advice that may be available. That would be our default position.

We have also just published some guidance for employers. I would be more than happy to send the committee a copy of it. That makes it clear to employers what they need to do. Given lessons learned from the past, there is no need for a retrospective check on people you have employed up to 30 June if you have accepted their passport or ID card, but if you do come across the fact that one of your employees should have EUSS status there is a process you can go through to support them in getting status and get what we call a statutory excuse, which means you can carry on employing them without fear of penalty for employing an illegal worker. Allied to that will be a proportionate approach around late applications. We are continuing to fund our grant-funded organisations, which have supported about 310,000 applications to the EUSS itself.

The general approach of the Home Office will be that, if we encounter an EEA national who does not have status, we will give them 28 days to get in touch and make an application. We also have concessions in place at the border for people on things like biometric residence cards that may be dated beyond 30 June that are no longer valid, again with a view to encouraging people to make an application, because ultimately I want our friends and neighbours to get the status they deserve rather than go down the path of enforcement.

Lord Faulkner of Worcester: Presumably, you are able to give an assurance that the sorts of mistakes that occurred at the borders in the middle of May, which led to press reports on 21 May that EU citizens were being locked up without reason, which caused enormous distress to them, will not be repeated in future.

Kevin Foster: We have reviewed some of that and changed some of our guidance. We have to remember that certainly earlier this year there were not just Immigration Rules at the border; there were some very

strict health rules around international travel set by both the UK Government and the devolved Administrations regarding what was an acceptable reason to travel to the United Kingdom. That applied to EEA and non-EEA nationals who did not have right of residence in the UK.

We have reviewed some of the processes there and reinforced the presumption towards bail where we cannot effect a quick removal. Normally, when somebody is declined entry at the border, we would effectively put them on the next flight, unless the reason for the decline was related to serious criminality. From our meeting with the EU ambassador this morning, those appear to have been successful and he appreciated the position we have adopted and the process we now go through.

I would emphasise that those coming to the UK at the moment should not just check the Immigration Rules; they should also make sure they are familiar with the border health requirements, because in addition to those rules set by the devolved Administrations we will use UK immigration powers to deny entry to those whose travel to the UK would not be consistent with border health rules.

Lord Faulkner of Worcester: That is a very good point. I think what you are saying is that the instructions that have been given to border officials and other authorities have been modified since what were clearly mistakes made last month.

Kevin Foster: I do not want to get drawn into particular cases because in some cases legitimate decisions were made in relation to detention, but generally the presumption is that there is bail. I particularly bear in mind that at the moment, with restricted international flights, it is more logical to put someone on bail than detain them pending a flight, unless there are issues such as criminality or customs offending.

The Chair: Thank you very much. You kindly offered employer guidance just now. I wonder whether we could take you up on that offer and you could send that to us. It would be of great interest to us. That was a valuable section.

We come to Lord Hannay.

Q22 **Lord Hannay of Chiswick:** Thank you for your answers so far. Could we turn now to the Government's insistence on digital-only proof of status for both settled and pre-settled? What is the rationale for this, when in the case of proof of double Covid vaccination I or, for that matter, a settled status EU citizen resident here merely has to pick up the telephone and dial 119 to get a physical certificate sent to them? I received mine this morning, only five days after I asked for it. We have received evidence that the lack of such a certificate is a genuine cause for concern to EU citizens, particularly those who are elderly and less familiar with digital systems. Perhaps you could address that point and tell us whether you think there is a risk further down the road—you mentioned things that happen 20 years afterwards—of a Windrush-type problem

where the absence of physical documentation was at the root of much of the suffering caused.

Will not the Government reconsider their adamant refusal to issue evidence—proof—in the form of physical documentation, which would of course be alongside a mainly digital system?

Kevin Foster: If we look at what lay at the root of some of the issues the Windrush generation faced, the fact is that there was no centralised record. People had been granted status under an Act of Parliament based on their residence. Some had physical documentation in the form of landing cards from decades earlier. What we really looked at with the EUSS was having a secure status held by the Home Office that is there in perpetuity, not just for the holders of that status but potentially for their children, whose British citizenship may well be based on the fact that their parents held settled status at the time of their birth and, therefore, they are automatically British citizens if born in the UK to those with settled status.

We looked at this matter very carefully. We are moving towards a digital system by default across society. We looked in particular at Australia, which has had a fully digital border and immigration system for about seven years, as a good, comparable jurisdiction to ourselves. At the core of it is that, first, we think it is a lot easier to share, particularly over the recent pandemic.

What people have to get is a number. I give the example of phoning up and getting a certificate. If someone struggles with digital, they will be able to phone up our settlement resolution centre, subject to going through a process such as the one you would have gone through with 119, and get a shared code they can give to an employer. There are some analogue fallbacks, if I can put it that way, for how to get a code. You just need to give that to the person who is performing the right to work or rent check, and they can go through the process to do that. A lot of checks are already being done. For the view and prove service, which has been in existence since 2019, between the fourth quarter of 2019 and the first quarter of 2021, the service has had over 3.9 million views and over 330,000 views by organisations checking immigration status. This is something people are already familiar with.

Finally, one of the big differences and things that we want to look at, and we are pleased about rolling out, is reducing the number of times someone has to show their immigration status to the Government or public services. In England and Wales there will be automatic checking by the NHS of status, again reducing the need to present any status, including a digital one. Similarly with DWP and HMRC, we are trying to reduce the number of times people have to present it and looking at having a digital system.

We are looking closely at how our current systems are working. We have looked at and learned from how Australia moved some time ago now to having this system and how digital status cannot be lost, tampered with

or stolen. Over the past year it has been quite valuable to many people in being able to share their status easily without having to do a physical check or take a photo of a physical document, given the pandemic. So, we do not plan to issue physical documents. I would say this is where our general migration system is going. For example, the cohort that already has to use digital status is those who have received status under the British national overseas process, or the Hong Kong visa process, which did it by a digital application system. They were the first cohort that needed to be able to use digital status.

Lord Hannay of Chiswick: You have managed to answer a lot of questions but I am afraid not the one I asked. You have not answered the question why you are not making available an alternative physical documentation route as is being made available to those with two vaccinations. Surely, this is to ignore some real distress. If it is only a modest proportion of the settled and pre-settled who feel anxious and nervous, and are not at all calmed by your telling them that they are jolly lucky not to have to present this piece of paper every time they cross the border—they want to be able to do that because they feel it gives them certainty.

I feel it is hard for the Government to justify that something that has been volunteered by the Government in the context of the National Health Service is being refused by the Home Office in the context of settled status. Why on earth?

Kevin Foster: I did answer your point. You referred to phoning up and how you can share your status. To be up front, a few years back people would not have been reassured in not having a tax disc for their cars. Few of us would suggest it would be good to go back to doing that now.

As to where we are, I recognise that this is a new type of system, but we have seen many moves towards more use of digital with fallback availability in terms of the settlement resolution centre and phone. That is where the comparator arises. Someone is given a code that they can write down on a bit of paper and share with someone. For example, at the border it can show EUSS, including whether someone has an outstanding application, in the same way other information is available on migration status. Our long-term goal is to move away from people having to carry bits of paper and documents across the border, including the Covid scenario.

The Chair: The next question was to be asked by Lord Purvis—I am sorry, Lord Hannay. We will come back to you in extra time if that is all right.

Lord Hannay of Chiswick: No, I was not asking—

Q23 **The Chair:** There are connection problems with Lord Hannay. That will be looked into.

The next question was going to be asked by Lord Purvis, who has unfortunately been called away to the Chamber. I want to go back to

these organisations that you have been funding that are focusing on providing support to vulnerable citizens. Could you remind us when this funding is due to run out; what plans, if any, you have to extend that funding; and, if so, for how long?

Kevin Foster: It goes up to 30 September of this year. Our plan is that once we get beyond the deadline we will work with the grant-funded organisations to see what demand there is, what process they are facing and what the scale of demand for their resources still is, and then we will take a decision on whether we need to fund beyond that or the current structure is the right one. For now, they are funded up to 30 September to continue supporting applications. That also includes people who are looking to apply beyond the 30 June deadline; it is not just to support those who applied beforehand.

The Chair: I suppose that the concern we have been debating is the length of the tail of the EU settlement scheme. Earlier, you gave the example of someone applying 18 years later who is definitely in a vulnerable category. We have at least the conversion of those people who were in pre-settled status to settled status as well. Could you say something a bit warmer about the possibility of funding still being available? The sheer numbers of people with pre-settled status suggest that there are quite a lot of vulnerable people in there, simply by applying only a very small percentage to those numbers. There are well over 2 million who are in the pre-settled status.

Kevin Foster: It will be a couple of years before people have to start converting from pre-settled to settled, although we are seeing quite significant numbers already doing so. That should be a bit more straightforward, because we have their time record, if they are still living in the UK, and we are already seeing quite a number of people applying as they hit five years in the UK.

To be perhaps a little bit warmer, we are considering how we can support this cohort going forward, but also the wider cohorts as people start to engage with digital status and we consider how we can make our immigration system simpler and easier to access. Those who are familiar with this will know that it is far from being the simplest area of legislation, not least the fact that the Immigration Rules were last consolidated back in 1994. Another project in the coming years is to do that.

We will carefully consider where we are with demand. For example, is this something we can pick up via our general services? What will the demand be on the settlement resolution centre as we go forward? What is the balance between supporting those who have status and those who are making late applications? Similarly, with the sheer numbers who have now applied, we expect to see some changes in that cohort as we go forward and it being more common that we are supporting those with status, and to access that, rather than supporting them in making an application.

The Chair: I think there is a little bit of extra warmth in that, but it is certainly something that we will remain very interested in as a committee. A subsidiary point is that you have been giving public funds to these various organisations. Can you describe how you have been looking at how effective those funds have been in their expenditure?

Kevin Foster: The first thing to make clear is that we have not set numbers and targets for particular organisations because some are working with people with extremely chaotic lifestyles or who are very vulnerable. Therefore, we might need to put in more time per case. We did not want it to become a target for who gets the most in, because, for example, supporting someone who is in employment and perhaps just needs language support is very different from, potentially, a group I met working in Glasgow with EEA nationals who are homeless and potentially have fallen into issues to do with substance abuse. Clearly, that will be a much more complex case to deal with. Therefore, we did not want to see a kind of league table of numbers or so much per application. What we do is monitor numbers against their own estimates of what they felt they were able to do. We arrange monthly calls; we look to see what activities and work they are doing, but, in part to reassure the committee, we do not just turn it into whether they have hit a particular quota this month. We look at the quality of what they are doing rather than just the quantity.

The Chair: That is very helpful. Thank you very much.

Q24 **Lord Foulkes of Cumnock:** It is good to see you again, Minister. Could I return to pre-settled status? There are 2.3 million people. What are you actually doing? They are going to lose their rights. They are allowed to stay for only five years. If they do not apply for settled status, they lose their rights. How are you getting in touch with them to make sure they know that they should apply for settled status?

Kevin Foster: My understanding at the moment—I look briefly at officials here—is that we grant five years from the time they obtained pre-settled status. In some cases there might be a slight difference from when they hit five years' residence, when, by the way, they can immediately apply to the EUSS for settled status to the point at which pre-settled status would expire. We are looking to provide automated reminders before that happens.

To reassure you, exactly the same list of reasonable grounds—they are not exhaustive—for initial application will apply also to conversion from pre-settled to settled status. My understanding is that the first grants of pre-settled status do not expire until 2023, so over the next few years there will be a period of encouraging people to start to apply as they hit five years. You can apply immediately for settled status, and then we will be engaging and looking at automated reminders. We expect the process to be relatively simplified, particularly for those who have maintained their residence. We have put in place concessions for absences around Covid and other areas for an important reason.

Lord Foulkes of Cumnock: What would happen if they missed the deadline?

Kevin Foster: It is probably very similar to the case where people miss the deadline of 30 June. Our first default will be to look at whether there are reasonable grounds for a late application. There are exactly the same provisions as for a late application next week. There are provisions around children, those who are vulnerable, those who have been unwell and all the other stuff. There will be a similar approach, the only difference being that we would have a clear record of them having had pre-settled status already.

Lord Foulkes of Cumnock: How do you know you have the right contact details for them?

Kevin Foster: These are the contact details people supply to us. We urge them to keep them up to date because we are accessing them, but it is possible to track down pre-settled status through the settlement resolution centre, if you know you are coming up to the time. Even before the deadline of next week for the initial set of applications, we have had 147,000 convert from pre-settled to settled status two years ahead of anyone needing to do it. We look forward to seeing more doing it, but our general approach will be to make outreaches or automated reminders, looking to engage with community and society groups, but I provide the assurance that there are protections for a late application for conversion similar to those for pre-settled initial application.

Lord Foulkes of Cumnock: Do you keep those details on the infamous Home Office computer that goes wrong from time to time?

Kevin Foster: We have quite a lot of back-ups. We have managed to hold BNO records for a very long period of time alongside others. Part of the bonus of digital status and knowing who has status is that we have a record that we can track back. We are working on various systems for account recovery so that it is easier than just having to ring the Home Office. Let us be honest: most of us are familiar with banking and other areas. We are particularly working with community groups and others to make sure it is a system that can work effectively, with similar provisions around the compliance environment I outlined over the next month. In most cases we normally have an email, phone number and address, so in most cases at least one of those will still be relevant in a five-year period.

The Chair: Minister Foster, thank you very much indeed. We have a question for you at the end. We now move to a very patient Minister Morton. I am sorry it has been such a long wait, but we thought it better to run the thing in sequence. I ask Lord Faulkner to start this section.

Q25 **Lord Faulkner of Worcester:** Minister, thank you for your patience. You have been sitting listening to us for quite a long time. I want to ask about the rights and the position of UK citizens in the EU. It is a subject on which I have received more emails and letters than any other in recent months. People are worried about their status, whether they are living in

France, Spain, Italy, or indeed any country of the EU. Could you tell us a little bit about your role and the role of the Foreign Office in supporting these UK citizens to make sure that they are able to access their rights under the withdrawal agreement?

Wendy Morton: Thank you, Lord Faulkner. I am happy to do so and I have been happy to sit here patiently listening to the rest of the questioning.

You ask a really important question about my role. I am the Minister for the European Neighbourhood and the Americas, and I am responsible for the Government's work in terms of citizens' rights, but specifically citizens' rights under the withdrawal agreement, the EEA-EFTA separation agreement and the Swiss citizens' rights agreement. I took on those responsibilities on 13 February of last year, following the UK's exit from the EU, when the department was the FCO; now it is the FCDO. With negotiations on citizens' rights successfully concluded and the agreements now being applied, the FCDO leads on co-ordinating the Government's policy relating to the implementation and application of the citizens' rights agreement.

You are probably wondering what that means domestically. It means that we co-ordinate with the lead departments—the Home Office, DWP, HMRC, Department of Health, MHCLG, BEIS and the Department for Education—to ensure that the UK Government are meeting their international obligations towards EU citizens in the UK. In Europe, we are responsible for supporting UK nationals in the EU and making sure their rights are upheld by both the EU and member states.

It may be helpful for me to say that as part of my responsibilities I am responsible for the governance of the citizens' rights agreements through the UK-EU specialised committee on citizens' rights; the UK-EEA-EFTA separation agreement joint committee; the UK-Swiss joint committee on citizens' rights; and the UK-EU specialised committee on Gibraltar. There are various committees. Of course, the FCDO is also responsible for diplomatic engagement with member states regarding citizens' rights. That could be technical engagement and consular prevention work through our European network of embassies, consulates and high commissions. I have also participated in a couple of events with UK citizens in the EU in the past couple of weeks.

Lord Faulkner of Worcester: I suspect they were quite lively, were they not?

Wendy Morton: They were really helpful to me. They were quite lively but not overly so. I did an event in Belgium and one in the Netherlands. It really emphasised for me the breadth of different communication channels that we are using to try to reach out to as many UK citizens across the EU as we can, and rightly so.

Lord Faulkner of Worcester: What engagements have you had with the member state Governments and the Commission on the specific

subject of the rights of Britons in the EU?

Wendy Morton: We engage regularly with the Commission through a specialised committee on citizens' rights, which oversees the implementation and application of the citizens' rights part of the withdrawal agreement. At these meetings, the UK and EU will exchange updates on the progress that has been made in implementing Part 2 of the withdrawal agreement and how it is being applied. The specialised committee allows us to raise and resolve technical issues as they arise.

To give a few other examples of how and where we engage, my officials from the UK and the EU form a committee, which met last week, on 17 June, as I am sure you are aware, Lord Faulkner. It was the seventh time that the committee had met. The agenda at that meeting included the operation of residence systems; reasonable grounds for late applications; deadlines in constitutive systems; communications and support; and consideration of the fourth joint report on residence. There was a divergence of opinion regarding some aspects of the UK's implementation, and further discussions were agreed for this week. The UK and EU have agreed to meet at least every three months this year to support the correct implementation and application of the citizens' rights part of the withdrawal agreement and produce a joint report on residence.

The FCDO continues to engage with member states bilaterally. I mentioned that I was at some citizens' rights events last week. In the bilateral discussions with my counterparts I quite often raise citizens' rights issues. For example, I have raised the matter with France, Belgium and the Netherlands in recent months. As part of my engagement I have spoken to my counterparts in a number of member states. It is a bit of a list, but I will read them out to give you a feel for the breadth of engagement I have been undertaking on top of what officials and posts are doing: Cyprus, Italy, Greece, Romania, Slovakia, Finland, Hungary, Croatia and Slovenia. I have also written to my counterpart in Malta.

Lord Faulkner of Worcester: Are you happy to be seen by UK citizens as their person in the British Government? They do not have Members of Parliament who sit in Westminster, so you must be the nearest thing they have to a direct link with our Government and Parliament.

Wendy Morton: I have never really seen it like that, but where I have engaged with them plenty of people have been engaging. It has been a really good opportunity for me to understand from them maybe some of the issues they have. To be quite clear, they often tell me how things are working well. It is not just negative feedback I get; I often get positive feedback as well.

Lord Faulkner of Worcester: I am sure, and I am sure that your constituents do the same with you as well; they tell you about the good things as well as difficulties, but that is interesting.

Wendy Morton: Absolutely.

Lord Faulkner of Worcester: Thank you very much indeed.

Q26 **Baroness Couttie:** Good afternoon, Minister. The Foreign Office has provided £3 million in funding to organisations supporting UK citizens in the EU. How long will these funds be available for, and are there any plans to extend them?

Wendy Morton: You are right: we have provided funding through the UK national support fund. We have provided up to £4 million of grant funding, which goes through third-party organisations to support UK nationals in the EU to help in registering or applying for new residence status. The funding currently runs through the financial year 2021-22, but this is something we will keep under review.

It is important also to point out that this fund can include elderly citizens, disabled citizens and perhaps those living in harder-to-reach areas. Through our partners we have reached 320,000 individuals, and 16,000 UK nationals have been directly supported by a caseworker.

Baroness Couttie: All of that sounds fantastic. That is exactly the group I am most worried about, along with those who may have spent decades living in the EU and think their previous residency arrangements can continue when they cannot. We took evidence recently from British in Europe, which described the funding as geographically “patchy” and stated that it covered only 12 countries and not all the regions within those countries. I am concerned that some of the people we have just described will fall through the net. What other support is available for UK citizens who cannot access the support fund? How do you respond to that criticism?

Wendy Morton: It is important to recognise that we have our support fund, but member states are also providing communications within their own countries to support UK citizens with information and comms. In deciding where to allocate our funding—this is an important point in terms of the fund—we look to balance our objective of achieving a broad geographic cover with the obvious need to achieve value for money and ensure that the funds support the largest number of at-risk UK nationals, as well as the availability of viable organisations that can help with this programme.

The fund operates in 12 countries, which I am happy to list: France, Spain, Germany, Italy, Bulgaria, Cyprus, Greece, Poland, Portugal, Slovakia, Malta and Norway. Beyond the fund, we support UK nationals and their family members in every relevant European country by communications campaigns to inform UK nationals of what action they may need to take to secure their rights under the withdrawal agreement.

The other source of information is through the relevant *Living in Country Guide* on the GOV.UK website. There is a UK national support fund, but that is not the only way of communicating with and providing support for UK nationals in the EU.

Baroness Couttie: What I am concerned about is that a lot of the EU

countries vary significantly in the amount of effort and the mechanisms by which they try to communicate with UK citizens living within their borders. Some of the people we are talking about who may be vulnerable or elderly are not necessarily tech-savvy, yet much of the communication is being done through technology. I am concerned that these people will fall through the net.

Wendy Morton: To add a bit more clarity on that, it is right to recognise that there are vulnerable people, including older people, we need to reach. The issue of accessibility to technology is important. That is why we continue to hold a whole range of outreach events across countries. To give you a flavour of the outreach, there have been town hall events; Facebook Live Q&As; interviews with the media; perhaps interviews on the radio as well; digital content on GOV.UK; and social media channels. I am reminded that in November 2017 our European network held over 785 outreach events that reached 495,000 UK nationals.

We have used a whole range of communication channels to try to reach out to as many people as we can. I did an interview just the other week. One point I made was to encourage UK nationals to take the steps they needed to take. If you know family or friends who are in the same situation, use that as another reminder to tell people to come forward. If you need to take steps to complete the regulatory application forms, my advice is to get on and do that.

Baroness Couttie: You are confident that for British citizens living within Europe, everybody will have had the information they require to be able to act on it.

Wendy Morton: What I am saying is that we have had a huge range of outreach events targeted right across member states and different communication channels to reach as many people as possible, including those who are more vulnerable, those who are older, and those who perhaps have less access, or maybe no access, to digital technology. We have carried out a really wide range of events on top of the communications that will be done through member states.

The Chair: We need to move on and turn to Lord Wood.

Q27 **Lord Wood of Anfield:** Carrying on from Baroness Couttie's question, in countries that have the so-called constitutive system, the deadlines for application by UK citizens are approaching in the next nine days. What steps are the FCDO taking to ensure that in the next week citizens realise the immediacy of the deadlines and have the information they need?

Wendy Morton: We continue to engage as much as we possibly can and ensure that the message is out there that the deadlines are ahead of us. We have a very comprehensive communications plan aimed at reaching out to as many different groups as we possibly can. Our network of embassies and consulates continues to carry out events to reach out to those citizens. It is important to reiterate that the support we give is

intended also to complement and support the communication of EU member states.

Lord Wood of Anfield: Do you have a sense of how different countries with deadlines coming up will approach the issue of UK citizens missing those deadlines? Is there a range of responses expected, or does the FCDO have any sense of what we should expect after 30 June?

Wendy Morton: It will be for each individual country to make that decision itself, but in terms of communications and deadlines the UK Government are working really hard to make sure that UK nationals in the EU are absolutely aware of their rights and the actions they need to take to secure them, and particularly in constitutive member states where there are deadlines to apply for new residence status. It is important that we and member states keep pushing forward communications. Gareth wants to come in at this point.

Gareth Roberts: I am Gareth Roberts, head of the EU department in the FCDO. One thing I want to add to what the Minister said is that we also talk to countries and our hosts in constitutive states, and encourage them to take the same pragmatic and flexible approach to late applications as we are doing for EU nationals in the UK. We are confident that they will take a similar approach to ours.

Lord Wood of Anfield: I guess you do not want to be in a situation in two weeks' time pleading on behalf of UK citizens for a flexible approach but then be accused at home of not providing a flexible approach. You seek flexibility on both sides of the divide on this one.

Wendy Morton: It is important that we keep a dialogue with member states and push to ensure that as many citizens as possible have taken the necessary steps as we approach the deadline of 30 June, but also maintain those conversations with member states.

The Chair: That is very interesting. We return to Lord Lamont.

Q28 **Lord Lamont of Lerwick:** I was going to make exactly the point that Lord Wood made about it being rather difficult to complain about deadlines when we ourselves have one. The Government stated after the most recent joint committee meeting that the UK was determined "to respect EU citizens' rights, and urged the EU and Member States to do likewise as regards UK citizens within the EU". Does that mean that you have specific concerns about particular individual member states? If so, could you tell us a bit about it?

Wendy Morton: The UK is taking a pragmatic and flexible approach in this matter in terms of reasonable grounds, as my colleague in the Home Office set out. When it comes to the EU, as I am sure you will be aware, Lord Lamont, Article 18 of the withdrawal agreement obliges member states to allow individuals to apply after the deadline where there are reasonable grounds for missing it. I expect member states to take an equally pragmatic approach to the UK's and adopt some flexibility where it is needed.

The issue of reasonable grounds was discussed at the specialised committee on citizens' rights last week and we received some welcome information that all constitutive member states are making guidance publicly available. I know I keep repeating this, but it is important we keep communicating with citizens and take all the steps we can to ensure they are informed and take the necessary steps before 30 June, should they wish to do so.

Lord Lamont of Lerwick: My next supplementary was meant to be about the biometric card, which we have already discussed a bit. Perhaps I could divert my question on that back to Mr Foster. I am sorry to startle him. I was rather impressed by his answer to Lord Hannay, except when he began to talk about people not wanting to go back to having tax discs on their cars and much preferring a digital system.

Not so long ago I received a communication from the DVLA in Swansea telling me that I had purchased an expensive car in Blackburn, which I had not actually done. What this emphasises is that his argument about having a centralised secure system is valid only if that system is 1,000% accurate. Any mistake that occurs makes it very difficult for the citizen to have recourse. I found that with DVLA I could not engage with it at all about this fictitious car I had purchased in Blackburn, which, as far as I know, to this day it believes I own but I do not. Surely, there is a serious point here, which I think Lord Hannay was on to, about errors in the system. I remember very well the errors in the Inland Revenue's computer systems. They are not fool-proof.

Kevin Foster: In answer, I refer to BNO status, which has been held for 24 years and is dealt with by Her Majesty's Passport Office. People do not need to hold a BNO passport directly to benefit from that status. That has been in effect for some decades. That is in contrast to previous schemes in decades past where centralised records were not made but bits of paper were issued. Some people kept them; some people did not because they did not think they would need to in the long run. Ultimately, the difference between a digital status and a physical one is that it is much harder to forge. In the example just given, it is not something you can just produce at home. We look at how banking and other areas have emerged into very secure digital systems. They are working effectively. Our good ally Australia—a country with which we co-operate on so many things—has had a fully digital immigration system for about the past seven years. We think that is a good comparator in looking to move forward.

We are not switching the whole system overnight. We are not putting the whole immigration system on to this; we are going for a phased approach. We felt that with EUSS, why not make it a simplified process and that is an appropriate way to go forward? We are seeing many people, before they are required to do it, sharing their status quite simply and easily, and we have fallbacks in terms of contact with the SRC. People still get a written confirmation of status that they can also use as an aide-memoire. It does not act as proof of their status, but it is

something they can use if they need to contact the Home Office via one of the fallback routes or if, for example, they are an individual's representative with power of attorney.

The Chair: We come to the very patient Viscount Trenchard.

Q29 **Viscount Trenchard:** Could I come back, please, to Minister Morton? Good afternoon, Minister, and thank you very much for being with us today. I would like to ask further about citizens' rights in EU member states.

Some of our witnesses raised concerns that a number of member states are at risk of breaching the information requirements contained in Article 37 of the withdrawal agreement. These requirements fall on member states, not the Commission. Some member states are very centralised; some are federal with these obligations exercisable at regional or provincial level. Do you share the concerns of our witnesses?

Wendy Morton: You raise an important point. All member states have implemented and are applying the withdrawal agreement. Let us be clear on that. To that extent I do not envisage a systemic failure or any malicious suspension of the rights that we have protected. That said, we continue to monitor, as I am sure you would expect us to, any reports we receive of non-compliance, or of UK nationals in the EU who have experienced difficulty in evidencing or exercising or even accessing their rights. We continue to monitor that very closely.

To share with you a couple of examples, this might include a refusal to access unemployment benefits in France; child benefits in Italy; and healthcare registration in Cyprus.

As to difficulty in evidencing rights, I have a couple of examples of that to share with you. One example is someone being asked for incorrect documents in Portugal; entry and exit refusals in Spain; and difficulty applying in Malta where very onerous or burdensome residence testing and bank account requirements have been imposed. In those cases we raise those reports proactively and robustly with the EU at the specialised committee. Therefore, we are ensuring that where there are instances of misapplication, they are remedied by the member state concerned.

I think it is fair to say that as we approach the 30 June deadline in the four member states concerned—France, Luxembourg, Latvia and Malta—a number of UK nationals are yet to apply. I have spoken a lot about communications. We have to keep communicating because it remains a concern to ensure that those who want and need to apply do so. We have very much welcomed the pragmatic extension of the deadline in the Netherlands. We would urge other member states where the number of applications by UK nationals is still below official estimates to consider doing the same as well.

I feel strongly that the actions we have been undertaking are having a positive impact on a daily basis. For example, Greece issued detailed guidance to all public and non-public bodies explaining how the

withdrawal agreement should be applied, and generally EU member states have been receptive to addressing instances of misapplication. Getting things right for our citizens is absolutely in all our interests.

Viscount Trenchard: That is very interesting. Thank you for all those different examples referring to various member states.

As far as the EU's role in monitoring the implementation of citizens' rights is concerned, is that consistent? It seems to me that the new biometric cards that the Commission has introduced are not being applied consistently across member states. Do you think that is a concern?

Wendy Morton: When it comes to the role of the European Commission, as guardian of the treaty, it has a dual role with regard to both implementing and monitoring the withdrawal agreement. On the one hand, the EU has a political role representing the collective voice of member states in governance structures, such as the specialised committee on citizens' rights, and as a party to the withdrawal agreement it is ultimately responsible for the correct implementation and application in the EU. On the other hand, the Commission also fulfils a function as a monitoring authority in guiding, scrutinising and enforcing the correct implementation and application of the withdrawal agreement in member states. It also receives and acts upon complaints from UK nationals in the EU. That is very much the role of the Commission.

You referred to the biometric card. That is more a Home Office angle; it leads in terms of digital status.

Viscount Trenchard: No, I meant the new EU biometric card.

Wendy Morton: As I say, in terms of implementation, there is a mechanism through the committee if there are things we need to raise, but perhaps Gareth can say a little more.

Gareth Roberts: You mentioned specific issues about biometric cards. If possible, we could get more details so that we can give you a full answer about whether and where there are discrepancies among member states. It is certainly one of the things we can raise through the specialised committee. As the Minister said, we can make sure that all UK nationals get their rights in full across the entirety of the European Union.

The Chair: The most patient of all our members is Lord Tugendhat.

Q30 **Lord Tugendhat:** Minister, we have covered a lot of ground. My question is very much a final one. Taking up the point made by Viscount Trenchard, we have heard concerns about implementation in countries with declaratory systems, as well as those with constitutive ones, particularly in cases where there are large resident UK populations and implementation is decentralised. To what extent do you share the concerns that have been expressed? Do you see considerable variations from one country to another depending on the relative efficiency of the national bureaucracies?

Wendy Morton: Every country will be slightly different in its approach; every country has slightly different numbers of citizens. Since the beginning of the negotiations, when it comes to the UK, citizens' rights have been the Government's priority. I believe that, like the UK, the EU equally remains committed to the shared goal of making sure citizens have the certainty they need and their rights can be relied on. We are committed to fulfilling these obligations and upholding citizens' rights.

It is important that we continue to provide the information and communication for citizens across the EU to make sure they are as best informed as possible, whether they are living in a country with a declaratory or constitutive system. I have made the point about communications quite a lot, but for me it is really important that we use the different channels we have—our network of posts across member states and the specialised committee—to continue to raise issues as they come up and make sure that citizens' rights are a priority.

Lord Tugendhat: I was not calling into question the good will or intentions of member states. I was wondering about the efficiency of the system. Can you tell me from which countries with significant British populations are you hearing the greatest worries expressed? I am not calling into question the good will of the Governments; I want to know where the worries are felt.

Wendy Morton: I may need to come back to you with more detail on that. My focus is on making sure that as many citizens as possible have taken the necessary steps. Different countries will be at a different point. Gareth might have more of a headline.

Gareth Roberts: You are absolutely right. In declaratory systems there has been less take-up. As a consequence, there is less urgency than in constitutive systems. At the moment we are hearing the majority of concerns where the deadline is getting closer because people are, thanks to the comms campaigns, becoming more aware and want to make sure that they have their status in order. That does not mean we are not also focused on the declaratory systems where there is less take-up. As the Minister rightly said, that is where we continue working with comms campaigns and talking to the Commission and bilaterally from ambassador level down, to make sure that member states are fulfilling their obligations.

We also do a lot of outreach across the system, making sure that when issues are raised and people hit problems, we have the right contacts in the host Governments to make sure those issues are resolved quickly. You hear the calls more where the deadlines are closer, but that does not mean that we are ignoring the other countries, especially the declaratory ones.

Lord Tugendhat: I thought I was asking a rather anodyne question. What I do not understand is the reluctance you have, Minister, and your official, to tell me in which countries British residents are expressing the most concern. In which countries do they feel the most worried? They

may not be justified, but it would be useful to know where those worries are most intense. If you are not able to answer now, perhaps you would be able to let us have it writing.

Wendy Morton: I will certainly come back to you. What I have tried to do in the course of my answers is share with you some examples of where we have highlighted concerns in specific countries, but let me come back after the meeting.

Lord Tugendhat: Okay, thank you. If you are coming back with the information, I think I am done. What I want to be clear about is where the worries are most deeply felt and whether this is a result of misunderstanding on the part of the British people, or because of the complexities or inefficiencies of the host countries' regulations. I know that if I was in the position of a long-standing British citizen in these places, I would be very worried. It would not necessarily be the fault of the Government—it might be my fault—but it would be useful to have a fix on where the worries are, and to what extent they arise from a misunderstanding by the Brits and to what extent they arise from the difficulties of the host country.

The Chair: We are a couple of minutes beyond time, and I regret that, but I would very much like to allow time for one tiny supplementary question and one very short question to be asked. We will certainly be finished at the latest by 5.40. Is that acceptable, Ministers Foster and Morton? You are very kind indeed. The supplementary question is from Lord Foulkes.

Lord Foulkes of Cumnock: Minister Morton, I am a bit confused. I do not understand the term "European Neighbourhood", precisely what the Minister's responsibilities are and how they relate to Lord Frost's responsibilities. Who in the Government has overall ministerial responsibility for dealing with the European Union and its member states?

Wendy Morton: I am smiling only because I was following the questions put the other day or this morning and am aware that a similar question was asked of Lord Frost. I am the Minister for the European Neighbourhood; Lord Frost is Minister for EU relations.

Lord Foulkes of Cumnock: How do you co-ordinate? What is the logic of that? How do you work together?

Wendy Morton: We work very closely together, but Lord Frost is the Minister for EU relations. My remit is much broader; I have the whole of the European Neighbourhood, the Americas and the DfID brief. Lord Frost's remit is much more specific to EU relations.

Lord Foulkes of Cumnock: Maybe it is, but you have Gareth Roberts—

Wendy Morton: Citizens' rights, as I set out at the start when describing my responsibilities, sit with me.

Lord Foulkes of Cumnock: I am very glad there is still an EU

department in the Foreign, Commonwealth & Development Office and that you have someone like Gareth Roberts to keep you in control—advised. I think I should choose my words more carefully.

Q31 The Chair: I suspect we will be asking that question again. Thank you very much, Lord Foulkes, for that.

I turn to our final question, and I request a very short and crisp answer from both of you. We as a committee are constantly worried about current difficulties in the relationship between the UK and EU. I wonder whether you feel that the—*[Inaudible]*—in the relationship that has eroded trust has moved through to the citizens' rights area and might cause concerns to us regarding the smooth operation of citizens' rights issues going forward. I ask Minister Morton to answer that first, very briefly, and then we will turn to Minister Foster. Is it possible for other Members to mute, because there is interference?

Wendy Morton: I just reinforce the point I made in response to one of the earlier questions. Since the very beginning of negotiations citizens' rights have been the Government's priority. I believe that, like the UK, the EU also remains committed to citizens' rights.

The Chair: So, you are not concerned.

Wendy Morton: That was not what I said. I said that citizens' rights are a government priority. To expand on that a little, they are a priority and, as I have been setting out this afternoon, we are undertaking a whole range of activities to support UK citizens in the EU through this process, through the UK support fund, our communications channels and the work that our network of posts is doing across member states. Citizens' rights remain a priority.

The Chair: Thank you for that clarification. Minister Foster, could I pose the same question to you? Should we be concerned about leakage of the problems in the rest of the relationships into the citizens' rights area?

Kevin Foster: Absolutely not. The EUSS is a constructive UK immigration law to give our friends, neighbours and colleagues who came in at the time of free movement secure status in the United Kingdom. It is not based on any ongoing trading relationship or issues like that. It was established before both the withdrawal agreement and the comprehensive future partnership agreement were reached with the European Union. We are very clear that the EUSS delivers our obligations to EU citizens in the UK under the withdrawal agreement. However, it is not affected by any decisions going forward. People's status is secure and created under UK immigration law and it will not be affected by any of the current discussions or debates.

The Chair: I am sure that answer will be enormously helpful to many people watching. Thank you very much for that. Thank you both for being very patient and for a series of helpful and frank answers, which we much appreciate. Our report will be out next month. With that, I declare this evidence session over.