

Committee on the Future Relationship with the European Union

Oral evidence: Progress of the negotiations on the UK's future relationship with the EU, HC 203

Tuesday 7 July 2020

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Members present: Hilary Benn (Chair); Mr Peter Bone; Sally-Ann Hart; Antony Higginbotham; Stephen Kinnock; Nigel Mills; Mr Barry Sheerman; Dr Philippa Whitford.

Questions 515 - 558

Witnesses

I: Luke Piper, Head of Policy, the3million; Dr Kuba Jablonowski, Research Associate, the3million; Barbara Drozdowicz, Chief Executive Officer, East European Resource Centre.

Examination of witnesses

Witnesses: Luke Piper, Dr Kuba Jablonowski and Barbara Drozdowicz.

Q515 **Chair:** Good morning. Welcome to today's meeting of the Select Committee on the Future Relationship with the European Union. Can I begin by asking our witnesses today to introduce themselves?

Barbara Drozdowicz: Good morning. My name is Barbara Drozdowicz. I am the chief executive officer of the East European Resource Centre.

Dr Jablonowski: Good morning. My name is Kuba Jablonowski. I am a research associate with the3million.

Luke Piper: Hello. My name is Luke Piper and I am head of policy at the3million.

Q516 **Chair:** You are all very welcome before the Committee today. We are extremely grateful to you for giving up your time to join us. As you know,



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the position of EU citizens here in the UK is an issue that the Committee and its predecessors have taken a very close interest in since the referendum result. It is a little while since we took evidence from you and a number of things have happened. We are very keen to explore those today.

Can I begin by asking you this question? Clearly, at the start of this process, there were a lot of concerns about what would happen to EU citizens in the UK. I know you have particular issues that you are worried about, and we will get on to those. Looking overall at the number of people who have applied for and been granted either pre-settled or settled status, how does what has happened so far compare with the concerns you held at the start of the process?

Barbara Drozdowicz: Our observation is that in general the settled status application process is going well. We have concerns related to the fact that there have been significant delays related to the Covid pandemic. That not only caused an impact on the Home Office's own operations, which then had a second-hand impact on people's decisions being delayed or significantly delayed, but it had a very significant impact on how citizens can obtain documentation from their own consular services. We have always had a bit of concern about that, because Brexit does not impact the national legislation and the ease of obtaining documents that are necessarily to identify yourself to the Home Office. Currently, it is a very important factor in people possibly not meeting the deadline on 31 June next year.

Q517 **Chair:** We will come to that. Is there anything, Kuba or Luke, you would like to add?

Dr Jablonowski: The question on the question is what the basis is for assessing whether the scheme is going well. That is an unknown and we will probably be able to elaborate on it a little more when it comes to the EU settlement scheme statistics. It is true that a large volume of applications have been processed under the scheme, but the real question is how many applications are yet to come from those who have not yet applied. That is the key question that we do not know the answer to. Without knowing the answer to that, it is really hard to say how well the scheme is going.

The second set of issues is around whether it is going well for whom. For some applications, definitely, it is. Some people can evidence their residence easily, get their ID scanned and get the settled status that they are eligible for. But we have specific groups of applicants that we are concerned about, for whom it is not that easy, such as young people, elderly people, people who have caring responsibilities or irregular working patterns, and so forth. It could be said that it went well for a lot of people, but we do not know how many people are yet to be processed under the scheme and we do not know the inequalities in outcomes of the EU settlement scheme for diverse groups of applicants.



Chair: We will come to that.

Luke Piper: I am reminded of the submission we did in the last oral session, on 3 July last year, and your question was how it compares to what we were expecting at that time. We were expecting, yes, that large numbers of people would apply and the trend is that that has happened, but I am looking at the concerns that we raised there and they are very much the same now, about particular groups, issues of access and things like that, which we will probably go into more detail on today. In terms of where we are now and if it is what we expected, I am sorry to say that on some points it is, but on the plus side lots and lots of people have applied.

Q518 **Chair:** One of the issues you raised and, indeed, on which our predecessor Select Committee made a recommendation was that of physical proof of status, as opposed to being sent a code that could be accessed online. Would you like to say anything further on that? Has that proved to be a problem? Are you worried that it is going to be a problem once we come to the end of the transition period?

Barbara Drozdowicz: Yes, unfortunately, it has continued to be a massive problem. Accessing the online profile is not straightforward for users who are not necessarily fluent in IT; let me put it this way. Another issue is accessing the profile when the application is made with the assistance of a third party, because quite often it seems that people do not have access to the details that are necessary to log in. We have concerns that that might lead to exploitation of users who need to access their profile. They might be required to pay someone for it and so on. We do not have a huge volume of evidence around the criminal aspect of it, but there is definitely some aspect of exploitation there.

Finally, people just do not know how to go about it. The problem is that they tend to operate only on the document that is being sent in PDF by the Home Office confirming that status has been granted, which is not a decision itself. It is just a confirmation of status being granted as a print-out and, if that is lost, there is an issue of trying to break into your online profile. It has been difficult. It has been difficult for support organisations as well to help people use their online profile.

Our concern is how online profiles are also accessed by third parties, like organisations or agencies, so whether and how that will be accessed by DWP, for example, in relation to benefits or by the NHS in relation to healthcare. We do not know that. Our clients are very concerned about the future they have if they are unable to explain to anyone that they do hold the status and which status exactly it is.

Q519 **Chair:** The two particular areas where this is applicable are getting a job and renting somewhere, so landlords. Have the members you are representing experienced problems, even though we are still in the transition period, with employers and/or landlords saying, "I'm afraid you have to prove something to me if I am going to give you a job or rent



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you this property.”?

Barbara Drozdowicz: We spoke with our members before this session. There has not been a massive drive towards unlawfully discriminating against EU nationals. That seems to have stopped some time ago thanks to possibly the information campaign delivered by the Home Office itself. That was the case in 2017-18, where people were asked to prove that they had the right to work by confused employers in particular. There were some cases of landlords as well. Now it has largely ceased.

The problem is that, for example, in accessing benefits and tax credits, that still seems to be an issue. It is completely unclear for us how decisions are being made, especially by DWP, in terms of using settled status as a proof of eligibility.

Our concern is also that immigration status is being confused with eligibility for accessing state support, such as social housing allocations. For example, the term sometimes used against EU nationals is “no recourse to public funds”, which is an immigration term rather than an eligibility term, and that allows officials to essentially ignore any immigration status whatsoever.

Part of the problem is that it exists as an online status, so people just cannot show the card and say, “See here; this is my name, my status and my photograph.” If that was the case, especially for people who are vulnerable or seen by the system as vulnerable, it would enable people to access the support they need. It is not now possible, and it does not seem to be anywhere near as easy as it is supposed to be for people who are vulnerable.

Dr Jablonowski: We as the 3million conducted a survey with Professor Tanja Bueltmann from Northumbria University at the start of the year. In that survey of more than 3,000 EU citizens, we found that more than 10% of participants have already been asked to provide proof of settled status, which they should not have been. The issue that Barbara was talking about is still very much a current one, in that people are already being asked for proof of status.

A lot of problems related to future status will only clarify as we go along. After the transition period, we will start seeing more and more people using it and, therefore, more problems, but we are seeing right now, which is also a finding from that survey, that, for a small minority of people who refuse or are wary of applying for EU settled status and have not applied yet, the fact that the status is digital and that it tracks the behaviours that you mentioned, so renting places and getting jobs, is a barrier to applying.

Of those who are yet to apply, 35% said that they were putting off their decision to apply because of the digital status. People are really concerned about it. Perhaps the most important finding of that survey, again based on more than 3,000 surveys completed, was that the



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physical proof came right at the top of concerns of EU citizens: 89% said they would like an option, not compulsory, of physical proof.

Chair: That is really helpful.

Luke Piper: It is not just our voices that have expressed wishes for physical documents. A number of charities and organisations have produced reports of their own, and there has been a consistent calling for physical documents, based on similar reasons to the ones we have already talked about now. If this pursuit of a non-physical document is to continue or there is no mechanism by which people can get a physical document, there has to be a real big drive for communications towards the public at large about how digital status works and what that looks like in the wider public frame.

It is important to stress that it is not just a question of people having status under the EU settlement scheme or having applied by June next year. A whole new immigration system is going to be implemented. We have real concerns about how people are going to be navigating that, and a lot of that is going to be down to the communications. It is not just about the comms of the system to people who need to apply. It also has to be the comms of the immigration system to the public at large, because without that knowledge, unless the status quo of physical documents continues, it is going to lead to some quite significant problems further down the line.

Chair: That is extremely helpful.

Q520 **Antony Higginbotham:** Thank you to all the witnesses for coming. Barbara, this is probably more a question for you at the minute, but, Luke and Kuba, if you want to come in, just stick your hand up and I will come to you. The Home Office grant scheme has been running for over a year now, and I just wanted to get a sense from you of what impact that grant scheme has had so far.

Barbara Drozdowicz: The scheme has been fundamental in supporting people who have problems accessing the application process to access the scheme. I have to be perfectly honest that we would not be able as a community sector to support our members and community members in accessing the EUSS application process without the support provided by the scheme.

The scheme is in the process of renewing as we speak, and I am concerned that it will not stretch until the end of the application window. That shows how important it is to have the support system in place. The last three months of the application window, April through June next year, are going to be potentially unsupported by the Home Office or the Government funding for us. It will have a massive impact on people who need this advice.



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One reason is that immigration advice is quite rare and specialist advice. It is tightly regulated, and it is not straightforward or easy to become an immigration adviser. The quality of immigration advice relies a lot on people's future dependence and independence in living in the UK. The scheme provided that capacity, which we have been able to drum up through our individual projects to give people the advisers they need. The quality has been controlled better and people can rely more on assistance from grant-funded organisations than they could through private means. It is very expensive, given the rarity of immigration advice.

Finally, the scheme supported very specialist, specific immigration advice related to EU nationals. It does not look like anything special compared with other current immigration systems, but it, in fact, is quite complicated. It is part of legislation and regulations affecting EU nationals, especially those who experienced things like criminal convictions in the past, who might have derivative rights and so forth. It is rather quite complicated. I am not at all convinced that we would have been able to support the many thousands of users we have without the scheme. I hope that the scheme will be continued while it is necessary for EU nationals to be supported in accessing the scheme and in executing the scheme later on, because using the new immigration system later on will also require some support.

Q521 Antony Higginbotham: That is really helpful. Thank you, Barbara. I think I am right in saying your organisation has received one of the grants. Are there any Home Office reporting requirements, or anything like that, that allow the Home Office to delve into the impact it is having, so it has that data, which will help it when it comes to extending and looking at that?

Barbara Drozdowicz: Yes, we are bound by quite a strict reporting regime. We provide figures of people supported, case studies of types of support we provide and descriptions of the methods of support, so the Home Office does have quite a lot of intelligence from many partnerships that have been accessing this funding to make an assessment of how it is working. I am positive that it is being used. The funding is being continued for the last two quarters of this financial year. Currently, we are in the competitive process of applying for it, and hopefully it will help us to carry on with the funding later as it is needed.

Q522 Antony Higginbotham: It sounds like it has been enormously beneficial in making sure that the quality of applications going into the Home Office result in a reasonably high success rate. Of the refusals, 99% are based on eligibility, so it sounds like it is having the right effect. I wonder, though, where the gap is, because 3.3 million or so applications have been done so far. Where is the gap between that number and what is left? That will then presumably help with where the grants need to be targeted in the future.

Barbara Drozdowicz: That is a good question. We would all like to know how many people have been left out of the scheme so far. However,



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having said that, more important is the question of who those people are who need support, rather than how many of them there are.

There is a very clear pattern in terms of how grant-funded organisations have been supporting users to access the scheme. The first batch of users who were supported tended to be people with medium support needs and people who just needed a bit of confidence. They needed some help with documents, maybe evidence and so on. As we have moved on, the cases have become more complex and more difficult, which shows that the people we need to help most in this later part of the application window for settled status will be clients who have quite complex legal advice needs.

There may be fewer clients, but those needs will be much more complex. We are looking at things like cross-border criminality, so, for example, people with convictions in other member states who need to deal with those being spent. For example, there will be issues with family breakdowns, domestic violence and derivative rights. Those things will require much more advanced and much higher-level, because it is tiered, immigration advice. For this reason, we probably need to focus on the quality of that advice rather than the spread of net.

Q523 Antony Higginbotham: Rather than breadth and trying to cover everything, it is essentially narrowing it down and saying, "What is left is essentially the more complex cases."

Barbara Drozdowicz: Yes.

Dr Jablonowski: I wanted to come in on those figures and the number of 3.5 million people who applied, to stress that, first, the way the Home Office reports on those figures means that the number of applications rather than unique applicants is being reported on. Applicants can submit multiple applications to the EU settlement scheme when they want to upgrade from pre-settled to settled status. The Home Office currently says that only about 2% of all applications are duplicate applications, but that would mean around 70,000 already in the system.

Secondly, of those 3.5 million people, we are not quite sure how many are still in the UK, so even using that as the number that is certain is slightly problematic. Then the biggest problem is that we do not know how many EU citizens are here. I am looking at the impact assessment for the EU settlement scheme produced by the Home Office in March 2019. That states that it is anywhere between 3.5 and 4.1 million, so even the Home Office admits that there is a gap of uncertainty of around 600,000 people. Since that was published, we have learned that there are further problems with reliability of the population statistics that these numbers based on. It is impossible to estimate who and how many people are yet to apply.

Antony Higginbotham: Yes, that is a good point. That is why it is so important that the next bit of the grant is targeted on where we are



missing gaps.

Barbara Drozdowicz: I just have one word on counting people in this context. We have quite significant interest from EU nationals who have returned to EU member states, but they have retained rights of residency and they still can apply to use this immigration instrument. On top of EU nationals living in the UK, you have a significant number of EU nationals already departed from the UK who might wish either to retain their connection with the country, because of children or parents living here, or just to come back. Those are additional thousands of people who we might need to consider as clients for this particular scheme.

Dr Jablonowski: Those applicants that Barbara is talking about are also counted towards the figure of 3.5 million applicants, so just because there were 3.5 million applicants it does not mean they were all based in the UK. It is possible to apply from overseas and people have. Those figures are all in the totals.

Luke Piper: I believe your specific inquiry was around the grant-funded organisations. I agree that that is quite an important limb in this process. The feedback that has been given to me and others has been quite mixed. I know that some organisations feel that the investment of time is not exactly reflected in the way the programme works. It is not commercially viable for those organisations. I have heard concerns from some organisations that have not felt able to put in new applications, because it is not sustainable for them to do so in the way that the grant funding has been set up.

There have also been concerns expressed about the way that information has been fed back. These organisations often exist in their silos of experience, so if they are specifically dealing with children, they know their expertise, and so forth. At least to me, there has not been a global perspective disclosed from the Home Office on how they are mapping which organisations and which resources need to be delegated in the correct way.

What is clear is that some of these organisations have freshly established themselves, but most of them existed already. If they had been discouraged from providing this service, particularly as the need grows over the next 12 months, it is going to expose some quite significant gaps in support for the people we are most concerned about, which are the ones who are going to be left behind. There are some very serious questions that need to be asked about the operation of GFOs and their funding, listening to them more and understanding what more can be done to provide them with the necessary support to take their work forward over the next vital 12 to 24 months.

Q524 **Nigel Mills:** We heard last week that the European Commission thought that the rights under the withdrawal agreement were roughly similar to free movement as it currently exists. Do the witnesses agree with that, or do they think there are any gaps that need to be fixed as part of the



future relationship discussions? Barbara, do you want to start?

Barbara Drozdowicz: No, I will pass on the question. I need to think about it.

Luke Piper: I will do my best. The challenge is particularly the gap in terms of what EU citizens in the UK have compared with British citizens in the EU. It is quite a different story. A lot of it is about the ongoing and the future relationships, particularly around issues relating to social security co-ordination and professional qualifications. There is a lacuna in terms of how that is going to work going forward, particularly on, for example, professional qualifications. We have had reports given to us by experts in certain areas, for example lawyers, who have a qualification that is currently recognised in the UK and cannot be sure that their qualification is going to be recognised in the future, because it is conditional on the future negotiation and what is going on there.

In terms of broader freedom of movement rights, EU citizens can move back to the EU, but there are barriers that will prevent them coming back to the UK in the future. For example, if an EU citizen with settled status was outside the UK for five years, they would not be able to return relying on their rights under the agreement, but five years is a long time. It is more contentious and more problematic for those with pre-settled status. If they are absent from the UK for a period of six months out of 12 months, they break their continuity of residence, which would, therefore, prevent them from qualifying for settled status in the future. There are some real concerns there about how people will be protecting their existing rights with a view to securing their more permanent rights in the future.

Dr Jablonowski: Saying "roughly similar" is one of multiple ways of saying that things are actually different. Luke pointed out some of those differences. I just wanted to add one point around the mechanics of how the settled status works. You did not have to make an application to be in the UK under free movement, so this is a fundamental change that we really need to understand.

The second thing that follows from that is the mechanics of how the EU settlement scheme then works. We have already mentioned concerns related to the digital status and how it tracks every interaction with the state in the UK for EU citizens here. Even if people are allowed to stay, the terms on which they are staying are quite substantially different.

Q525 **Nigel Mills:** It is fair to say that these are the rules now, and if you are out of the country for more than six months, you could lose your entitlement. That is not going to change as part of the future relationship negotiation, is it? The rules on professional qualifications being recognised might do if we get a good deal, I suppose.

Luke Piper: That is a fair point. There are two points that come from this. There is a question as to whether the rights under the withdrawal



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agreement are the same as the existing rights under EU law now. The problem is that the way the rights are being implemented in the UK has never been done before under EU law. The constitutive model has never existed within an EU legal framework. There are particular novelties in the withdrawal agreement that have not exactly been explored before, so there is fresh ground in that sense.

Then there are the elements that the agreement leaves behind, which are the things we have just been talking about here that are conditional on those future arrangements and agreements. The way that EU law works in an abstract sense is on a rolling basis. If you break your continuity of residence, you could just go back into the member state and start it over again, but in the context of the withdrawal agreement it is a frozen point in time. It does not have that refreshing basis.

At this moment in time, we are still seeing the consequences and the effect of having this new way of seeing rights preserved under the withdrawal agreement. As time goes by, we are going to start seeing some divergences, legally and practically, between how existing EU law works and how rights under the withdrawal agreement work. We are probably not really going to see that until the next six to 12 months.

Q526 Nigel Mills: On a slightly separate matter, the 3million asked to be an observer of the joint committee meetings and you have not been met with an entirely overwhelmingly positive response for that. Can you explain what you thought you might gain from being an observer at relevant meetings of perhaps their subcommittee and what the latest status is?

Luke Piper: It is important to have a voice in the room that is speaking for those who are in the scope of the withdrawal agreement. We are talking about an agreement that essentially looks to protect the rights of people. People's experiences and voices are important in that, so that is the abstract point.

Specifically, there has to be a translation between the experience and the impact of the agreement, and then that being reflected in the discussions that are had at these committees. It is great that we can feed into that through written evidence and potentially being called to give evidence to those particular entities. But, if there is a permanent presence, it allows for a much clearer and stronger dialogue between the organisations that are discussing with each other the experiences and problems EU citizens are having, and then bringing them to the table, so they can be discussed in a frank and open way.

Seeing it from a non-partisan perspective, our objective is to ensure that people who are in scope get their rights and can enforce them. It is important that those who represent those people have a voice in those discussions.

Q527 Nigel Mills: Are you hearing any encouraging noises that you might be



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allowed in the room or is that not the case?

Luke Piper: We have had some positive discussions with the parties about feeding into it. In terms of our status and what we asked for, it has not been a flat no, but it is diplomacy.

Nigel Mills: You are not getting invites, so that is basically a no, at least for that. Thank you.

Q528 **Mr Bone:** Can I start with Kuba? Lies, damned lies and statistics seems to be where you are coming from in relation to the Home Office and the ONS on statistics. What do you think about their statistics?

Dr Jablonowski: I have a lot of respect for the ONS statistics as such. The ONS is doing a great job in terms of its remit. The problem is not so much how well the ONS is working, but what the data is used for. The data on the EU citizen population in the UK was never collected with something like a constitutive EU settlement scheme in mind. It was never meant to be precise enough to allow for exact monitoring of how many of those in the country applied.

Most countries in the EU, as you heard last week from our friends British in Europe, have some sort of registration system for UK citizens and any EU citizens exercising free movement rights. The UK has never had such a system. The ONS statistics are very helpful, but they are not granular enough to precisely monitor what is going on in the uptake of the EU settlement scheme. Some of that is currently being improved by the ONS. It is making improvements to the 2021 census, which is great, but it will be too late to have any bearing on this, because the results will not be known until past the EU settlement scheme deadline.

Even if these were perfect statistics, there would still be a problem that they are based on survey research and do not cover all the types of EU citizens here. There is a year of difference between the publishing of the stats and the point when data was collected, so it just cannot be precise enough.

With regard to the Home Office statistics, again, they are very helpful. We really appreciate the Home Office putting out quite a lot of information, but there are those fundamental problems, such as the lack of clarity over the number of applicants who applied to the system.

Then there are some specific issues that the Home Office could be reporting on and it is not. Probably the prime example there is reporting on gender, in terms of application numbers and application outcomes. We have concerns about the quality of status being granted to women in particular, because they still have more caring responsibilities than men and are less likely to be in continuous employment. Data on gender would allow us to see if there is any disparity, but the Home Office is not publishing the data.

Q529 **Mr Bone:** In that particular case, it is not that they do not have the



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statistics, but they are just not presenting the right statistics, maybe deliberately. That is something the Home Office could improve. Is that your view?

Dr Jablonowski: Yes. I appreciate there are a lot of technical issues there, so I would not go as far as saying “deliberately”, but the Independent Chief Inspector of Borders and Immigration report from September last year showed that data on gender is available in the EU settlement scheme system; it is just not being reported on. We had a freedom of information request around that, which was refused, but that does not quite tally with what we know from the independent chief inspector’s report. It seems the data is available. It is just not reported on.

Q530 **Mr Bone:** If I had to ask you to be reasonably precise, what is your estimate of the number of EU citizens in the UK and whether they are likely to all secure their rights? We learned earlier on that there are also EU citizens not in the UK at the moment, but who have some right to apply here, which did rather surprise me. I would have thought you had to be in this country to apply. Could you, first, give us your best number, and split it between how many are actually here and how many are in the EU, if you do not mind?

Dr Jablonowski: I absolutely do not mind the question, but my best professional opinion is that it is just not possible to say. This is the problem that has to be fundamentally recognised. It is the reason why the3million has been calling for a declaratory system, because on 31 December 2020 we will not know. We cannot possibly know how many people will be in the UK in six months’ time. It depends on people coming in and going.

The statistics released to date show us that some of our estimates were very wrong. Probably the best case is the example of Bulgarian citizens. The most recent ONS estimate is 121,000, yet there have been 179,000 applications from Bulgarian citizens, so it seems that every Bulgarian citizen in the UK has put 1.5 applications through the settlement scheme system by now. With data this imprecise, I just could not possibly give you an estimate. I would call for an approach that incorporates dealing with that uncertainty, rather than trying to guess the best number.

Q531 **Mr Bone:** I remember during the referendum campaign I clashed with people from your organisation over numbers. Were you called the3million because you thought there were 3 million EU citizens in this country?

Dr Jablonowski: We were not active during the referendum campaign. The first meeting of the3million campaign was about a month after the referendum. As individuals perhaps, yes, but as the3million organisation, we had no role in the EU referendum campaign. We did not exist at the time. We could, citing the Home Office numbers, call ourselves “low estimate 3.5 million and high estimate 4.1 million”, but it would not be quite as catchy. We went with the3million as a symbolic figure, but we



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would not advocate using it as a basis for making policy and developing administrative systems.

Q532 **Mr Bone:** What I was just trying to get at is the difficulty with getting the statistics right. If I was in your case and thought there were possibly more than 4 million, I would have said 4 million. It seems that there has been real difficulty on this. You touched on the fact that you were not sure whether the number of EU citizens in this country would go up or down before the deadline. What is your gut feeling? Will the number stay the same, but different people, if you see what I mean?

Dr Jablonski: The most recent figures, uncertain as they are, show that there is still a small dribble of EU citizens into the country. The most recent estimate is slightly higher for the year ending December 2019 than for the year ending December 2018, so there is still a very tiny inflow, it seems. Then again, it breaks down between different groups. Accession eight country nationals seem to be perhaps moving out in higher numbers than the old EU countries, so there is quite a lot of movement within the cohort of EU citizens overall.

Q533 **Mr Bone:** Do you think, as we get closer, there will be a rush to come here from the EU?

Dr Jablonski: There is no evidence right now to suggest that, no. Even if people wanted to arrive to secure their status, I am not sure why they would be arriving minutes before the deadline. No, that is not necessarily something that would happen. From most European countries, it is extremely hard to come to the UK now anyway, because of Covid.

Q534 **Mr Bone:** That may be one of the reasons I asked that question, because people who might have been planning to come this year would not have been able to because of Covid. Assuming that we get to September and things are more back to normal, you do not think there would be a particular rush of people coming in then.

Dr Jablonski: It is hard to find data to make this prediction on. I would say that there is no indication right now, but you raise quite an important point there, which we are concerned about, around EU students coming into the UK for this academic year. This is the last year when EU students are eligible for home fees. There is a slight concern how that will be impacted by Covid, because every year a substantial number of young EU citizens come to study in the UK. My best answer to that would be to say that there is no data to indicate any large inflow of EU citizens into the UK to secure status before the end of December 2020.

Q535 **Sally-Ann Hart:** Good morning to our witnesses. I am going to ask a bit about some of the more vulnerable EU citizens living here, with children in care first. There are around about 9,000 children and young people in care in the UK. The local authorities have a duty of care to these children and a duty of care to make applications for settled status for them.



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According to the 3 million figures, only about 11% of these children have secured settled status. Luke Piper, what more could be done to ensure that children in care can secure settled status in time?

Luke Piper: There are lots of reports out there from not just us, but other organisations, like the Children's Society and Coram, which has recently published quite a detailed report on the sorts of recommendations and things that should be put in place to assist particularly vulnerable children in care.

One of the headline things is the provision of resources and information to both local authorities, which have the legal duty, and civil society organisations that can provide the help with the application process. It is not uncommon for a busy social worker to not really understand the full extent of the rights and options available to children in care. It is not just about exploring their options to apply for status, say, under the settlement scheme. There may be options and deadlines for children to register to become British, for example. There is a clear need for quite a broad service and support to those agencies.

There was a lot of call for legal frameworks to be put in place to protect particularly this vulnerable cohort of children. That took the form of an amendment to the immigration Bill—I will not give the full title—that has just now been passed to the Lords, where there was encouragement for an automatic grant of indefinite leave to remain settled status to children in this situation, because of the vulnerabilities associated with that.

I will not labour the other points of the report, but I strongly recommend that the Coram report and, indeed, the observations from the Children's Society are looked into. I support many of the observations there, particularly around the increased provision, but also recognising that clearer guidance and information needs to be given to Home Office staff about how to deal with these cases, particularly as far as evidence is concerned. There is quite a clear problem with children of particular nationalities being unable to acquire identity documents. Concerns have been expressed about how those people will make applications and then they will be able to navigate to get the appropriate status. Those are the key points I would make on that issue.

Q536 Sally-Ann Hart: So the low success rate for applications for children in care is to do with resources available, but also, if local authorities or the Government looked at the Children's Society and the Coram report, it might have some recommendations to improve those success rates.

Luke Piper: Just to unpack the information you have set out, it is not necessarily the number of successful applications versus unsuccessful applications. It is a question of people who have yet to apply. One of the major issues, much like the statistics more generally about the EU citizen population, is that we do not know the number of children who are in care and who are looked after children by the local authority. There is an internal mapping process that a lot of these organisations have to do



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anyway to identify these particular children and cohorts, to then get them to the status they need.

The challenge is educating and resourcing the people who have that legal responsibility, and ensuring they have sufficient power and information to then support that child through the process to the appropriate outcome. Otherwise, the consequences could be quite dire.

Barbara Drozdowicz: From our experience as a support organisation, “children in care” can be quite a misleading term, because those children can be 16 years old and have quite a few criminal convictions under their belts, partially because of coming from disadvantaged backgrounds, for example, and partially because such is life.

Our experience in supporting children or, in particular, social workers who have to support those children in accessing settled status is a mixed bag of goods, to say the least. We have seen some quite dreadful mistakes made in how applications were put together by social workers, because social workers are not immigration advisers. They should not be put in a situation where they have to solve a complex immigration case for a 12-year-old client, who might already have cautions or convictions, where there are no ID documents and the member state will not allow an ID document to be released for a child due to its national circumstances. Some countries do not recognise paternal responsibilities of councils because they are not the member state councils.

This particular user group is sometimes quite mindboggling. There is an issue of consent for an application to be submitted on behalf of the child and so on. It is a matter of the quality of support that these children and young people receive. This really worries us at this stage of the application window, with only a year to go.

First, there is the ability to identify EU national young people and children, and identify that they need to be supported in accessing the EU settlement scheme. There is the ability to identify the complexity of those cases and refer those children and young people, together with the social worker supporting them, to appropriate immigration advisers, be it places like Coram, the Children’s Law Centre or other providers that can provide level 1 or 2 immigration advice, which it would probably be most of the time for complex cases of EU nationals.

Finally, there is the ability to collect or reissue documentation that these children will require, because evidencing stay is not easy to do, even for children who have been in care for quite a few years. The ability for social workers to understand their origin in the UK and where these children come from, in the most literal terms, is also an issue. There are a lot of barriers as to why young people will not be supported and 12 months is not enough to identify them all, let alone have them supported.

Vulnerable people and those who have limited capability to perform legal duties, for example people with mental health issues, sectioned people



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and older people who have dementia or other learning incapacity, is a group we struggle with. There is a legal aspect of submitting an application on behalf of people who might not be competent to do it.

Sally-Ann Hart: They lack capacity.

Barbara Drozdowicz: There is an issue of criminal activity, a criminal past, for example, that people might not want to disclose, even given our best intention to help them with the EU settled scheme. We have to recognise their desire to have this application put in. That will also be the case with young people. It is a very long, complex and multi-layered process and the 12 months we have is not enough for communities to support members in applications, especially in cases where it is so complicated to provide support just to plan out the case.

Q537 **Sally-Ann Hart:** Thank you, Barbara. I know you have mentioned the elderly, but Dr Kuba Jablonowski mentioned elderly people beforehand as well. We have a number of elderly people who are vulnerable. They are going to remain vulnerable. They might be in care homes in this country. What is being done to help these people secure settled status?

Dr Jablonowski: As part of the grant-funded organisations, there are organisations that specifically deal with that issue. Age UK is the largest one that is trying to support elderly applicants, but not exclusively, because I am pretty sure the East European Resource Centre is also on that. Our colleague from the 3million works for an Italian organisation that supports a lot of elderly applicants, so a lot of organisations do outreach with elderly people.

The main problem is how to reach those who are socially isolated, and there is not an easy way out of it. Care homes probably can be dealt with in some sort of structural way, but people living on their own are the ones you would be most concerned about.

The other concern we had around elderly applicants was that we, especially towards the end of last year, saw a large number of people who have been here for decades being offered pre-settled status rather than settled. It is about them not only knowing about the settlement scheme, but also knowing what status they should be getting, making sure they do not accept lesser status and, if they do, knowing that they need to reapply to the scheme further down the line. There are a few things that could be done, but there is still an element of uncertainty there and not being able to reach everyone in time, I am afraid.

Barbara Drozdowicz: My last quick word is on the issue of being a British citizen, which is another issue that comes into play in applications for settled status. It is the case with both older and young people. Some children are born British citizens, technically speaking. They were born in the context where their parents were residents already, with a long enough stay and so on. Some applications we have been dealing with for



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children in care, or children actually, were rejected simply because the Home Office recognised them as being British.

We struggle with older people in particular, because older people quite often have a sense or belief that they are British and there is no documentation to support it, but there is also no reason to believe that they are not. People might not have documentation, as in a passport, because they have never used it, for example. They never travelled. They never needed it.

With those groups, in particular older people, it is also a case of identifying whether the British citizenship has already happened or has been documented, or not necessarily. In these particular two groups, it is important to be aware of this and to provide support to both clients and organisations, including social services for example, that have clients who might be British already, and just follow that path, because that might be easier. With some of our users, that has been the case. It is only fair for people who have become British citizens to exercise that right.

Luke Piper: There are very specific groups with acute specific problems. Particularly with older people, the use of technology is often the biggest hurdle. Age UK published a small report at the end of last year, which set out that over a quarter of over-65s have not used the internet in the last three months. There is a real concern about a barrier not just to the application process itself, but then going on to proving their rights in the future.

As for those who have mental health issues relating to capacity and so forth, there are very significant legal barriers to people who are able to apply on behalf of that person, and legal measures that have to be put in place for that person's application to be submitted. If somebody is fortunate enough to have a power of attorney and the scope of that power of attorney includes the ability to make that application on behalf of that person, that is great. Otherwise, there are, as I understand it, some quite significant legal barriers that people would have to go through, to be able to have somebody who can apply on their behalf.

The unifying element of vulnerable groups, and there are lot more beyond children and adults, is the concern about missing the deadline next year. The consequences for not applying in time are quite significant. Not to labour the point, but to revisit the significance of it, if you do not apply by the deadline, the rights you had before will disappear. If you do not have new rights, you are essentially living in the UK unlawfully, which means you cannot work or access housing, the NHS and other vital services until you acquire a status.

One of the unifying questions that need to be answered and we need to have quite a detailed understanding of, and this is consistent across sectors, is who can apply late. Who can apply after the deadline and what will their rights be until a decision is made? I understand the Government's anxiety to not be too prescriptive in saying who can apply



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late. I understand that. What would be helpful is if the Government were to explain who should not be able to apply after the deadline.

A lot has been discussed about those who can, but there has not been a lot of discussion about who cannot. If we can have a clear discussion with the Home Office, and that is something we can have now, the organisations, like ours and others, can start preparing work on the ground to be able to say, "If you are one of these people, you had better apply before the deadline; otherwise you are in quite a lot of trouble." The reasonable grounds issue is a big unifying question.

Specifically, looping back to older people, I have concerns about the numbers. We do not seem to have a clear picture about those who are entitled and those who can and need to apply. Based on my own experience, older people are more likely to assume that they have a right to be here than, say, somebody else.

There is a very concerning trend, which steps beyond vulnerable categories into the more general EU population. There is a worrying perception by some people that they do not need to do anything. I regularly come across people who have previously applied for and acquired permanent residence documents thinking that is the end of the journey and they do not need to do anything else, or who have been told by somebody that they are British and do not need to worry about it, or who have this perception that they have lived here all their life and do not need to do anything.

There are very similar trends here, in that assumption of rights, to those who were impacted by the Windrush scandal. There was this continuing assumption that they were okay. When they faced those barriers of employment, housing and health, it was only at that stage that they realised they were not safe. Unfortunately, sometimes it is too late then, and it could take time for them to be able to retrospectively fix the damage that has been done.

Q538 Dr Whitford: I will start with the issue of there not being a physical document and it only being online documentation. I think you mentioned the survey, Luke, showing that 89% of EU citizens are concerned about that. Obviously, it creates a barrier in certain circumstances, but even if you need it quickly you cannot access the internet everywhere in the UK at any moment you want. What are the arguments put forward for why there should not be an ID card? In what way do you not agree or not accept the argument of the UK Government for not having a simple ID card that comes out at the end of this?

Luke Piper: Kuba, you mentioned the statistic, so if you would like to go before me that would be great.

Dr Jablonowski: I did mention the statistic: 89% of people in our survey said they would like the option of a physical document. Luke can maybe add a bit of background as to why the Home Office is insisting on



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this being digital only. My understanding is that, aside from the more utilitarian things that the EU settlement scheme is doing, it is also a bit of a testing ground for the future immigration system, and that system is meant to be digital. That is one of the reasons.

The official explanation is around creating a two-tier system, where some people have online status and some people have a physical document. Our position is that the physical document should be optional. It should not be compulsory. The two systems explanation is the more charitable one. The less charitable one is that it is meant to test how an online-only system behaves in practice.

The obvious caveat is that the online system is still linked with a physical document that the person used to apply to the EU settlement scheme, so it is not only digital. You need to have that ID. If you change your ID, you have to change your ID with the online system, so there is still a physical element to it.

Luke Piper: The reason that is communicated to us repeatedly of why things need to be digital only is that, in the large, a digital status is more secure and, essentially, a safer means of proving your status. In addition to what you just said there, Philippa, about the ability to access that status, as much as we would love them to be 100% secure, digital statuses are hackable and sometimes subject to erroneous changes. We have had reports from people where their photograph on their digital-only status has been changed without them knowing.

The main thing to be said is that digital technology is obviously fantastic, but we are essentially seeing a transition from a tried and tested system of people just having their passports or a document. It has taken many years for employers and the general public to familiarise themselves with these documents. We will see a seismic shift from that to a digital-only platform that requires multiple steps to access the status. That is going to happen in a very short time. Essentially, the transition for that is the grace period next year, which is six months.

It is not a small population of people who are going to have to go around and prove their digital-only status. We are talking about millions of people here. It is quite concerning that there is a guinea pig, untested trial going on here with EU citizens. We have a couple of briefing documents, which we will be happy to circulate, where we address in more detail the concerns around a digital-only status and this vast shift from one status to the other.

It is worth mentioning that we hope the Government will revisit this discussion. It is more about people having the opportunity to have an alternative. We must drive towards a secure, safe and better way of doing digital status. There are problems with the way data is managed. That is a sub-issue of having a digital status, which we could revisit. People want, and arguably need, a physical document. The Right Honourable Michael Gove said before the House of Lords European Union



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Select Committee recently that he understood there was a moral and social case for physical documents. It remains as strong as ever. We hope that, given that there seems to be some wind in the sails around the issue, the Government will rethink and revisit it.

Q539 Dr Whitford: We have already talked about the sections of the population that do not have easy access to or understanding of the internet. I think the Windrush scandal has definitely left people with a feeling of vulnerability if they do not have something locked away in their house and in their hand. Barbara, you wanted to come in.

Barbara Drozdowicz: In terms of the safety and security of the system, the online profile is, in principle, safer than actually having your documents snatched from you. That is also one of the arguments, about the literal safety of the document and status. The Home Office mentioned in the past that one of the reasons it insists on an online product is that it does not expire. That is flawed, because it is attached, as Kuba mentioned, to an actual passport. That does expire, so what is the difference really?

It is said that no one can snatch it away from you and use it wrongfully and abusively against you, exploiting your status. They can and they do. We have a very significant and disturbing number of clients who come to us for aftercare, for lack of a better word, people who already have status and then discover they cannot access it, because someone changed the log-in details. Log-in details are multiple, so you need to have a phone number and the password that is attached to the email. These are the details you give to the Home Office, to the system, at the stage of application.

Unfortunately, we have a number of clients who have been helped by unregulated immigration advisers, who fleece them, to be honest, in terms of how much they charge for it. They retained the log-in details to access the online profile. The question is how much they charge them, following on, to send the link to their employers. There is always a way if there is a will, unfortunately.

The ability for users to have an optional physical document, a card, gives an additional layer of safety. You become independent from criminal networks that surely will try to take over and hijack the agenda here. I am positive of it, because it has been the case already. It seems so. It is more opportunistic now, but time will show how people can be smart when it comes to the online systems and taking them over, not even hacking them in a literal sense, as in accessing the actual online product, but just taking over the access to that product.

In terms of older people in particular, I would be very worried that this is literally what will happen. That profile will be used in future to claim benefits, for example. If we could ask for one thing, it would be that additional option for clients to have a document.



Q540 Dr Whitford: Kuba, we touched on the fact that the Government's statistics show that about 40% of people are only being granted pre-settled status. From my experience of constituents, this includes people who have been here for many years and never expected to have to apply for something, so do not have all the documentation. Therefore, these people have caring and employment gaps, which still, in our 21st century, predominantly affect women. How concerned are you about this? With regard to claiming things like benefits and other rights that come from your status in the UK, what impacts are you seeing on settled status, pre-settled status and those who have not applied yet?

Dr Jablonowski: Thank you for that question. It is hugely important. As a point of clarification, it is not even people getting the wrong status, but people being aware that they were granted the wrong status, where it begins. We saw the highest number of reported cases of people being granted the wrong status when we, the3million, publicised a table showing the difference between settled and pre-settled status. Suddenly, we had a flurry of emails from people contacting us and saying, "Hang on. I have pre-settled status. I did not realise it was worse. I have been here for years."

We talk about those groups of vulnerable applicants here. One example that stayed with me was a person who was a dual Australian and Greek citizen, born in Australia, 100% fluent in English obviously, with a slightly different accent. He worked for over 20 years in the civil service, so hardly somebody you would describe as vulnerable. He contacted us saying that he accepted pre-settled status without knowing the difference, despite decades of residence in the UK. Some people may have the wrong status and not even know.

As for the ratio of pre-settled grants, that is now 41%. Yes, numerically, we are concerned about this. My favourite document today is that impact assessment from 2019 that the Home Office produced. The low estimate for all pre-settled grants in that document was 900,000. The high estimate was 1.4 million. We are currently over 1.3 million, so it will probably take a month or two before we go over the high estimate of what the Home Office thought would be reasonable to expect in terms of pre-settled status grants.

It is impossible to quantify how many people were granted wrongly. We have seen numerous cases at the3million. We have also seen cases where applicants given the wrong status were willing to speak to the media. One case I remember from the top of my head was somebody whose case was publicised on Monday. The Home Office was calling him to tell him that his status got upgraded with no questions asked by Wednesday, so it literally took three days for him to get upgraded, without him doing anything.

There was the independent chief inspector's report that I mentioned, where the inspection window was very short. It was only three months between April and July last year. It showed that there were more than



7,000 people who wanted to select the option of getting settled status but ended up on pre-settled status. It is really hard to tell. It is anyone's guess, but we know this is happening, the consequences are very serious and some people do not even realise that they are in that situation of having accepted the wrong status.

Q541 Dr Whitford: Some of it is people not understanding the difference. They are thinking, "If I get pre-settled status, in a couple of years, it will be settled status," with, as you touched on, maybe the ability to go home and care for an elderly parent for longer than six months, or access benefits. What happens when we get to the end of their pre-settled time? Do you feel there is a need for a campaign to at least get people to understand the difference between settled and pre-settled status?

Dr Jablonowski: Yes, definitely. Some of that has been done already. I can see Barbara nodding her head. I am sure she tells her clients on a daily basis. We raise awareness of that with the 3 million. As you said, it is not something that people instinctively think about. We need to understand that Europeans arriving here arrived with no expectations of any border immigration controls being imposed on them later on. It is not intuitive for them to be thinking about this, even now.

Knowing that you have to apply for the status is the first barrier, but understanding what the status is and what it involves is another. If you do not realise what the limitations of pre-settled status are, the question has to be asked: will you know that you need to reapply to secure your rights in the long term?

There are lots and lots of problems and, obviously, Covid exacerbated that. Somebody on pre-settled status left the country, for example going for the winter to their home country somewhere in southern Europe to enjoy the sunshine, and then they got locked down, say in Spain. They may be coming back now with their continuous residency reset because of the six-month absence.

Q542 Dr Whitford: We are running short of time. I do not know whether there are any comments that Barbara or Luke want to add. Both of you be short please, because we still have more questions.

Barbara Drozdowicz: Very quickly, I have a point that Kuba already signalled there. People will have to reapply to apply for settled status. What worries me very much is that people do not know when this moment will come, because hardly anyone is mapping out their life against their immigration status. This is not how life works.

The other thing is whether there will be support in five years' time for people to apply for it. We are talking again about vulnerable groups, young people, older people, people who might have a very stretched history in the UK. Let us not forget that people who left the UK as early as 2011 are still eligible to have full settled status. These people will not necessarily know what to do if they decide to re-engage with the UK and



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so on. Whether there is going to be support for the current pre-settled status clients later on, and later on will stretch to 2026, is a big question mark. I would like to ask for this support to be made available.

Luke Piper: It is important that the rights associated with the status really need to be communicated, particularly in relation to accessing housing and social security like universal credit. It is one thing to get the status. That is fine, but the real problems start when people are trying to exercise a right. There is a big difference between what you get with settled status and what you get with pre-settled status. That has been acutely felt during the Covid crisis. I think a lot of members, like you, are going to see that balloon as the economic crisis continues.

Q543 **Mr Sheerman:** I have learnt so much from our excellent witnesses this morning that I am quite humbled. When I worked for a living, before I became a Member of Parliament, I was an academic, and I am a social scientist. I understand that a lot of the stuff we have been discussing this morning has been technical and based on data. I apologise that the British Government is not very good at data. We do not even know where people die and what they die of, by and large, let alone how many people we are talking about this morning.

Could we delve a little bit below the stats? Could I ask the witnesses for their sense of the feelings of these 3 million very valuable people, working and living in this country? Some are key workers in the NHS; others are very skilled workers in the agricultural sector. What are they thinking about the process? What is the morale of the people you are interviewing and talking to? Can you give me any sense of that?

Luke Piper: Yes, we can, Barry. Kuba previously mentioned some research that Tanja Bueltmann had done, and a big part of her research was exactly on this. I am looking right now at the word graph thing that strikes popular words of how people have been feeling about the scheme. What strikes me are words like "angry", "anxious", "alienated", "annoyed", "unwanted", "upset" and "unwelcome". For the vast majority of people I know, one thing that Brexit did was to galvanise an EU citizen identity. While it is a positive thing that a community has come together and people have rallied together to support one another, there has been a pooling of those feelings that I have just described to you as well. "Anxiety" is definitely the biggest word on here that I can see, and I would agree with that.

Barbara Drozdowicz: It is everything that Luke mentioned. We agree. In terms of our user group, our users are disadvantaged and marginalised. They struggle. This is our mission as an organisation, not a selection for this particular project. However, there are signs of people submitting applications because it is expected of them, without overanalysing the fact.

There is also a group of people who acquired rights under EUSS that they would not have under EU-based, legislation-based permanent residence



regulations, so people who would not exercise treaty rights for various reasons or would have problems with evidencing exercise of treaty rights. Those clients appreciate settled status as a process. Quite a few of them, especially those who are vulnerable, have been accessing state support, such as social housing or benefits. They have had a bumpy ride in that process, being taken off due to, on the face of it, ineligibility, then taken back on because actually eligibility was there, and then taken off again. Those are very difficult, complicated and anxious times for lots of vulnerable people.

They appreciate the fact that settled status gives them this solid evidence base, in that they can apply for something and they should not be removed from social housing because it seems someone misinterpreted what exercising treaty rights is, for example, or whether there are retained worker rights, or some other horrible word that people do not really understand and cannot apply. There is that.

Q544 Mr Sheerman: Can I push you a little on that particular point, before we move on? These people we are talking about are deeply embedded in our neighbourhoods. They have family, friends and neighbours. They have schools and teachers. Are they getting that support from, I would imagine, that community when they are distressed or uncertain about the processes they are facing? Do you think they are getting that?

Barbara Drozdowicz: To a certain extent, yes. People rely on organisations, charities like mine or local CABs, if they can command English well enough. They get support from their community directly as well, sometimes in ways that are not necessarily the best for them, because the EU regulations are complicated and there is a lot of misinformation. There are a lot of myths going on, even to the point where sometimes we meet clients who may not apply for settled status because they have been told all sorts of weird things about it. In general, there is access to advice and support.

If clients, or from our point of view users, are being supported at the right point, they tend not to fall through the cracks. Sadly, that falling through the cracks unfortunately happens. It happens because the situation of EU nationals, at this very moment, is not clear to the public sector, as in, for example, local authorities.

Q545 Mr Sheerman: Barbara, can I push you again on that point? You are looking at, online of course, experts on migration and citizenship. For Members of Parliament, that is our bread and butter. We are very experienced at it. What surprises me is how little I have had in terms of the demands on my office—and I have talked to many colleagues on this—from people who are uncertain about their status. Could you come back to me on that? I find very few are coming to me as a Member of Parliament. Is that the system working well, or do they not understand that MPs are rather good at this?



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Barbara Drozdowicz: It will depend on the group of residents or constituents you are looking at. Our experience is that eastern Europeans in general are much less willing to seek out help from broader society. They rely more on their own networks. That is partially because people feel they are not equals. They literally do not feel they are equals. They do not feel they will be seen as equal residents. They will not have the drive to speak with their local MP, for example, because they do not see the local MP as representing them. They are being told that they are immigrants and come here to do bad things sometimes, such as stealing jobs. Frankly, it is very disturbing, but quite a high number of EU nationals harbour this feeling. That is quite painful, because I am an EU national and I believe that we should be seen as and treated as equals, as we are by and large. There is the natural bit of mistrust, I suppose.

Q546 **Mr Sheerman:** I know we are short of time. Can I ask the other two to come in on that as well?

Dr Jablonowski: I will respond very quickly. For the whole session I was talking as a migration expert, as you said, and thank you for the very kind feedback on this. I wanted to say something as an eastern European perhaps, rather than an expert. I think what Luke has mentioned about that mobilisation, the sense of anger in EU citizens, is felt much more in some communities than in others. It very much links to what Barbara has been saying. There are Europeans who feel they are entitled to be here in the UK, and there are Europeans who do not feel so much like that. These would be the people who arrived after 2004, who took up low-skilled jobs. I have a PhD from a university now, but my first job was to clean dishes in a restaurant after I completed my undergraduate degree. This kind of experience, combined with seeing a lot of tabloid front pages over years and years and years, embeds a sense of inferiority in a lot of people. It is really hard to break out of that.

Q547 **Mr Sheerman:** How do you think people you have been talking to and listening to reacted to the Prime Minister suddenly inviting 3 million people in Hong Kong to have a special passport to come to the United Kingdom? Was that well received? What was the interest in that kind of gesture?

Dr Jablonowski: Personally, I would welcome that.

Mr Sheerman: It is another 3 million, of course, which I support. I do not want you to think I am anti-immigrant in any way. I have a long history of trying to encourage people from Hong Kong to come here. What was the reaction in the community to the attitude to 3 million people in Hong Kong and the 3 million EU citizens here?

Luke Piper: In my experience, during the course of the negotiations between the UK and the EU, people were treated like bargaining chips. That was a very strong feeling that people had, that they were brought into a negotiation when they did not need to be. That definitely created some very strong feelings.



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There is a lot of mistrust in the way Government do things, particularly the Home Office. That has come about not just because it has; it has come about because of a legacy of mistakes and some very bad things that have happened to human beings. A lot of EU citizens are very worried that that will happen to them. There is a lot of mistrust, which is why you see that big survey saying, "We want a physical document." They do not have faith in the process or trust that it is going to be done properly.

It is the reason why so many organisations have come together to try to support people through this process. Again, it is because of that lack of trust. Speaking as an immigration practitioner, as a lawyer who works in this area, I always say, when big announcements are made, that we need to see the substance. We need to see the detail. That has been seen in this EU settlement scheme and the way that rights are being implemented and rolled out. There is always a little shift to the left or a little shift to the right. I have those anxieties towards BNOs, who will be looking to exercise whatever options are available to them. I expect the same anxious scrutiny of those laws when they arise.

I feel there is a lot of work to be done in building trust. The Government promised that they would publish the equalities impact assessment of the EU settlement scheme by spring this year. I know the weather does not seem like it, but it is summer now and we have not seen that report. The ICIBI said that one of the reasons why that report needs to be published is to install trust in the process. Without that information and insight, that trust is going to continue to be eroded, I am afraid.

Mr Sheerman: I think that puts the finger on it. Thank you for that.

Q548 **Chair:** There are a few final questions from me. You gave an example where someone's photograph had been changed on their digital record. Presumably that could only have been done by hacking the Home Office system. When someone has access to their digital record, they cannot change any of the details, can they? Only the Home Office can do that. Is that correct?

Luke Piper: Yes.

Q549 **Chair:** This is a potential source of criminality, if people want to say, "I can get you your identity. I will hack into someone else's record and change their photo." Have you raised that with the Home Office? What did the Home Office say? Kuba, I see you are putting your hand up.

Dr Jablonowski: I put my hand up to say that it is not just the Home Office specifically that would have access to those. The data handling site of the EU settlement scheme is not in the public domain. We are told that the Home Office can pass the details collected through the application to other public or private bodies and charities. We had a freedom of information request around it, and we did not hear what they were.

Q550 **Chair:** There is a difference between passing the details and those who



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have the capacity to alter the record. I presume the only people who have the capacity to alter the record, officially, are the Home Office. Is that correct? Is that your understanding?

Dr Jablonowski: I do not know that.

Q551 **Chair:** It would be very odd if anyone else had the capacity to alter the record.

Luke Piper: It would be very odd indeed, given that it is a Home Office system. In that particular example, it was more where this other picture had come from and what triggered that event.

Q552 **Chair:** The right picture had been there originally and then, when somebody logged on, they found there was another picture. You used the word "hacked". Could that have been an error on the part of the Home Office by putting the wrong picture in, as opposed to someone hacking the system?

Luke Piper: To be clear, I did not say that was the product of hacking. I was saying that there was a risk that the system could be hacked.

Chair: Fine, I just wanted to clarify that.

Luke Piper: I am saying that part of the anxieties of a digital-only system is that things can be changed without people knowing. That was an example of that.

Q553 **Chair:** That is very helpful. The number of refusals of applications has been relatively small. Do you have any concerns about the refusals? There will be refusals, presumably, on grounds of previous criminal convictions, and refusals on the grounds that you are not actually eligible for the scheme. Do you want to very briefly say what your concerns are? Is there anything you want to say? You have referred to it in your evidence.

Dr Jablonowski: The slight concern here is that there were no refusals until the end of January. The latest statistical report on the EU settlement scheme says quite casually that, in February 2020, the Home Office decided to start refusing applications. We have seen one refusal in particular that has waited for seven months to be decided. This case was refused correctly, on eligibility grounds, but it seemed that the applicant was kept waiting for no obvious reason until February or March to be refused.

Since February, we have seen a stable amount of those refusals coming through, of which 99% are on eligibility grounds, so criminality refusals are only a small proportion of that number. We understand that more than half are for family member applicants, so for non-EU applicants. That would be quite concerning. That is quite a high number, given that EU family members comprise only a small proportion of all applications but more than half of all refusals.



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Q554 **Chair:** That is very helpful. On universal credit, obviously there is the court case at the moment. You have written and said that you think the way the Government are interpreting the rules is not within the spirit of the agreement. Can you just explain that, again briefly? Can you just clarify? If someone is in the country, makes an application for universal credit and then leaves, are you arguing that people should get their universal credit paid to them if they are not living in the country?

Luke Piper: The issue in short is that the manner in which people are tested to access universal credit is that they have to have been habitually resident in the UK. The hurdle that exists at present is that, for an EU national to qualify and pass that test, they have to either have a permanent right or have been a qualified person, so worker, self-employed, etc. Under the EU settlement scheme, a settled status gives you indefinite leave to remain. So long as you are living in the UK, you are resident here and you have your ILR, you are eligible. If you have pre-settled status, you not only have to show that you are resident in the UK, but you still have to show that criteria of being worker, self-employed, etc.

Why is that problematic in the context of the EU withdrawal agreement? The problem is that, under a constitutive system, the rights associated with your status are activated when you are granted your status. If you are granted pre-settled status, you therefore have rights under the agreement. That seems to be the interpretation of the European Commission. They have said it in correspondence to us as well as their guidance document. They explicitly say that the rights associated with the agreement flow from the granted status.

It appears to be that the UK's position is to say, "You may have been granted your status, but we still need you, at the point of seeking to get universal credit or housing support, to show that you were a qualified person for the appropriate period." We have an unusual situation. It would appear to be that we have a constitutive and declaratory system combined in one by the UK Government. You get your residence right to live in the UK, but you still have to prove the declaratory elements when you wish to access universal credit and so forth. There is some concern there.

Q555 **Chair:** This is subject to further consideration by the courts, because I think it is working its way up through the system, so we will have to wait and see what happens. I have two other very quick questions. What is your understanding of what the status of people will be if they have applied before the June 2021 deadline but have not yet been given a decision?

Luke Piper: They have the right until a decision is made. If you apply before the deadline, you have the right until a decision is made.

Q556 **Chair:** How will they demonstrate that to a potential employer or landlord?



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Luke Piper: I am glad you asked me that question, because it is an important one. The withdrawal agreement says that, if you apply, you get a certificate of application immediately. That certificate shows, "I have a pending application with the Home Office. I am waiting for a decision." The rights associated with that are informed on the face of the certificate. It is really important that these certificates are issued to people who have applied, particularly as we get closer to the deadline, because there may be a delay and they will need to prove it. Both in my personal practice and in the reports that have been given to me, we have seen considerable delays in those certificates being issued. They are not being issued immediately.

Q557 **Chair:** Are they going to be physical certificates?

Luke Piper: They are not. They are digital.

Q558 **Chair:** It is the same issue we were discussing earlier. Finally, the Home Office is going to need some criteria for deciding, if people apply after June 2021, whether they had reasonable grounds for doing so: why did they not apply previously? When do you expect that to be made available? Obviously, you have views about what you think would be reasonable grounds, given what you said earlier about children in care, people with dementia, people sectioned under the Mental Health Act and other things like that.

Luke Piper: It comes back to the point I was making earlier. I would like to know in what situations it is not reasonable for somebody to apply after the deadline. We have focused a lot on what would be reasonable, but I would be very interested to know when it would not be reasonable for people to apply. Is it because you forgot? Is it because you thought you were okay and then realised you were not? Is that unreasonable? There is a lot to be worked through here for it to be realistic.

The burden cannot really just be placed on the applicant in this situation. There has to be a bit of an understanding of how the system as a whole is working and if it is working effectively at reaching these people. The examples the Government typically give are the ones we have been talking about today, which is quite understandable. There is a sliding scale and that needs to be pinned down a lot more. The expectation is that the details are to come later in the year, but the sooner the better, because then we can have a dialogue about it and improve it.

Chair: That concludes the session. On behalf of the members of the Committee, can I say a very heartfelt thank you to Luke, Barbara and Kuba? It has been a really excellent session, and we have learnt a lot. You have been very generous with your time. Keep safe.