

# Exiting the European Union Committee

## Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 372

Wednesday 11 July 2018

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Members present: Hilary Benn (Chair); Mr Peter Bone; Joanna Cherry; Sir Christopher Chope; Stephen Kinnock; Jeremy Lefroy; Mr Pat McFadden; Craig Mackinlay; Seema Malhotra; Mr Jacob Rees-Mogg; Emma Reynolds; Sammy Wilson.

Questions 2201-2309

### Witnesses

I: Rt Hon Caroline Nokes MP, Minister of State for Immigration; Simon Bond, Strategy Director, Board of Immigration and Citizen System and Europe Director; and Mark Doran, Deputy Director, EU Exit Immigration Strategy.

## Examination of witnesses

Witnesses: Rt Hon Caroline Nokes MP, Simon Bond and Mark Doran.

Q2201 **Chair:** I welcome to this afternoon's meeting of the Committee the Right Honourable Caroline Nokes, Minister of State for Immigration, who is accompanied by—I hope I have this right—Simon Bond, Strategy Director, Board of Immigration and Citizen System and Europe Director. Is that correct?

**Simon Bond:** Yes.

**Chair:** That will do. That is not bad. Also Mark Doran, Deputy Director, EU Exit Immigration Strategy. Is that correct?

**Mark Doran:** That is right.

**Chair:** Thank you very much for coming this afternoon. We really do appreciate it. We are likely to be interrupted at 4.00 pm for a vote. Therefore, when the bell goes I suggest we all go off, and then if we could all make our way back here, although we won't be able to restart until you are here, Minister. We are very grateful to you for coming this afternoon. As ever, we have a lot of ground to cover because lots of members of the Committee want to ask questions. I will kick off with a couple of things; will EU citizens currently living in the UK be able to, first, vote, and secondly, stand in the local elections next May?

**Caroline Nokes:** Gosh. That jumps straight in with a question that I think was raised with me in the Chamber when we did the oral statement, and again in correspondence with the member for Ipswich. I am very conscious that there is—I am going to say a former mayor, she may not be former, she may be current—a former mayor of Ipswich who faces exactly this challenge. It is something that I have passed to the Cabinet Office to opine on. Certainly that was our intention, but in negotiations with the EU it was something, as I understand it, they were not prepared to accept reciprocity on. It is one for my Cabinet Office colleagues, who I have passed it on to. I hope they will come forward with a response quite shortly.

Q2202 **Chair:** Does the answer to the question depend on reciprocity? Is that the Government's policy: yes, they will be able to as long as the EU says the same? Or is it the Government's policy that they will be able to anyway even if there is not reciprocity or we have not sorted it out by then?

**Caroline Nokes:** I am not sure that I can answer that definitely. It is something we wanted to secure with the EU. We have not yet, but it would, of course, still be open to Government to make that offer. That is something that the Cabinet Office has yet to determine.

Q2203 **Chair:** The short answer is that they do not know yet.



## HOUSE OF COMMONS

**Caroline Nokes:** Yes.

Q2204 **Chair:** The EU citizens do not know if they can stand or vote? I am sure you understand the importance of settling that very soon, not least for those who are compiling registers.

**Caroline Nokes:** Indeed.

Q2205 **Chair:** Can I, in front of you, thank your colleagues who came and gave a briefing to the Committee? It was incredibly helpful.

Evidence of settled status is going to be given in digital form. Can you explain to the Committee how that is going to work? Let's say I am a landlord and you, for the purpose of the question, are EU citizens. You turn up and say, "I want to rent the property". I say, "I need to know that you have the right to be in the country. Can you show me some documents?" You say, "I do not have any documents, but I have my status in digital form". How will that practically work?

**Caroline Nokes:** The individual citizen will be able to send a link via e-mail to the landlord, where they would be able to check it on a one-time basis only so that it remains secure. That would then confirm their rights in much the same way that digital status is already available for right-to-work checks.

Q2206 **Chair:** As an EU citizen I would send an e-mail to the landlord and say, "Here is a link", and that link would obviously allow them to get into my bit of the site. Would that show a photograph?

**Caroline Nokes:** Yes.

Q2207 **Chair:** What other details?

**Simon Bond:** That is one of the advantages of digital status over a physical card. It would show just the details pertinent to the person asking. For a landlord it would just be a very simple, "This person is allowed to rent". If it was an employer asking, it might also show the conditions that they are allowed to be employed under; for example, the number of hours a week they are allowed to work, or that they can only work outside of term time, that sort of thing.

Q2208 **Chair:** Are you aware of any cases where you have already been rolling that out for other people where employers or landlords have said, "I want to see something physical. I do not trust this. How do I know you are not sending me to a fake website? How do I know this is real?" How does that work?

**Caroline Nokes:** We have certainly found that the digital right-to-work checker so far has been successful. I am not aware of any complaints that have been raised directly with me. I cannot bring any to mind at the moment. I am not sure if either Simon or Mark can add anything to that.

Q2209 **Chair:** Am I correct in thinking that non-EU citizen family members of those who are granted settled status will be issued with a biometric



## HOUSE OF COMMONS

residence document. Is that correct?

**Caroline Nokes:** Yes.

Q2210 **Chair:** It is. Why are you proposing to do that for them and not for those you are giving the settled status to? What is the thinking behind that? They will be the family members of the same people who have a proof of their settled status in digital form, but if their spouse is non-EU, they will have a biometric residence permit. Why did you decide to make that split or difference?

**Caroline Nokes:** Because the family members are, in the same way as are family members of British citizens who have come in from non-EU states, required to have a BRP. We took the decision that the non-EU spouses of those who had achieved settled status would have the same biometric residence permit.

Q2211 **Chair:** As digital evidence of status is rolled out more generally, will that eventually be replaced for them? In a future world, is it your plan that everybody, whatever the form of their status, will have it in digital form at some point?

**Caroline Nokes:** I think that is a question for a future world and is certainly not one that we have a view on at the moment.

Q2212 **Chair:** If you are rolling it out currently for some people who are non-EU and you are going to digital for the 3 million or so Europeans, that is already quite a big world.

**Caroline Nokes:** Okay. I am being attacked on both sides by officials who would like to give an answer on this.

**Simon Bond:** We do regard the digital status as being better than a card. It prevents people from both over-sharing and under-sharing data, it is kept fully up-to-date, and it is far harder to abuse and have fraudulent applications on. Over time, that is what we would like to move to. As the Minister says, the exact timeframe will partly depend on what we think about the future, but it is something we are looking to roll out wider and wider. As the Minister says, it is already live for non-EU nationals on right-to-work, and we will be extending that for non-EU nationals through the period. A really important thing to say is that until the end of the implementation period, EU nationals have to show no status other than how they operate today, so it is simply using their travel document, passport or ID.

Q2213 **Chair:** Irish citizens may apply, but they do not have to. Why should an Irish citizen in the UK apply for this settled status when they do not need it?

**Caroline Nokes:** That is a very good question, and one that I would regard as being up to the individual concerned. We did not want to exclude them, so if they wish to have settled status they can, but they do not have to. It is entirely a matter of individual choice.



## HOUSE OF COMMONS

Q2214 **Chair:** They would have settled status anyway in law?

**Caroline Nokes:** Yes. They do not have to do it, but we chose to make it an option.

Q2215 **Chair:** You do not think that might create some confusion when people think, "Oh, it has been left to me to decide whether to apply or not. Perhaps that gives me something I do not have already"? I am wondering about the clarity of the message to Irish citizens; that is all.

**Caroline Nokes:** The reality is that we take very seriously the rights under the common travel area. We could not have obliged them to do it, but chose that if individual Irish citizens wish to, they could.

Q2216 **Chair:** In the information you will say, "It is entirely a matter for you, but it makes no difference whether you have one or not, because your rights are the same either way"? Fine. That is helpful.

**Caroline Nokes:** There is one element, which is when it comes to EU citizens with settled status and their right to bring in non-EU spouses or people with whom dependence pre-exists. They might choose to do so to facilitate bringing in a non-EU spouse. I say "spouse" for easy reference, but that could be a durable relationship that pre-existed.

Q2217 **Chair:** An Irish citizen who did not have settled status could not, but if they had settled status then they could under the Withdrawal Agreement?

**Caroline Nokes:** They would still have the protected rights, but we think it will be easier, potentially.

Q2218 **Chair:** In what way would it be easier?

**Caroline Nokes:** I am going to let Mark answer that.

**Mark Doran:** It is purely a caseworking issue for us in the Home Office. If an Irish citizen has applied and got settled status with us and at some point in the future they apply to bring in a close family member, it will be very easy for us to say, "Okay, that person has settled status. They have that right to bring in that family member".

Q2219 **Chair:** That is a convenience issue for the Home Office in processing it, but it does not mean they would have any lesser right? Their rights would be exactly the same?

**Mark Doran:** Absolutely. Their rights are the same. This is purely about ease, for them and for us. Once they have gone through the simple process with us now, they will not have to do so again in the future when they want to bring someone in.

Q2220 **Chair:** Can you tell the Committee when EU citizens here will first be able to start making the applications? Just the date. I think you mentioned it in the briefing. Is it towards the end of this year?

**Caroline Nokes:** I do not think we have given a specific date. Launching the scheme and moving it into a private beta-testing mode, as is common



## HOUSE OF COMMONS

for many Government IT schemes, is something that will enable us to test it thoroughly. Certainly during the autumn we hope to be testing it at scale. I would anticipate towards the end of this year we will be opening it for applications, hopefully in phases where it will be fully open by March of next year.

**Q2221 Chair:** I will return, finally—before I bring other colleagues in—to the question I put to you when you made your statement in the House. What happens to people who have been given settled status—because you have rolled it out and they have made an early application—if we end up with no deal?

**Caroline Nokes:** I keep our commitments in this offer to EU citizens very seriously indeed. The Prime Minister has been very clear that we want EU citizens who are here to be able to stay here, and we recognise the very significant contribution they make to our communities and, indeed, to our economy. This is an international obligation that I take very seriously. We do not anticipate that there will be no deal, and in the event of no deal I personally hope that we will uphold everything that we have said and make sure that we deliver on our commitment to EU citizens.

**Q2222 Chair:** That is very helpful. The Government are spending quite a lot of money preparing, just in case there is no deal; but leave that on one side. I take it from what you said that Government are saying to anyone listening who is an EU citizen, “Look, whether there is a deal or not we are going to do right by you and you will be able to stay”. I think that clarity will be quite helpful, because if there is not clarity and people say, “We are preparing for no deal. No deal is a possibility”, it could create anxiety, as I am sure you would accept, on the part of the 3 million European citizens currently in the UK if they felt there was any doubt about their continuing right to reside in the UK.

**Caroline Nokes:** Once we have opened the scheme and someone has achieved settled status, it is the equivalent of indefinite leave to remain. We would not be able to take that away from them. If they have it they will be able to keep it.

**Q2223 Chair:** In those circumstances, therefore, if Government tried to stop anybody else getting settled status after no deal I am sure they would take it to court and say, “Hey, you gave it to those European citizens. You cannot discriminate against me because I happened to be later than them”. It sounds like what you are indicating to us is that we can be reasonably confident that come what may, EU citizens will be able to stay and will get settled status. You said it was your personal view; is that speaking on behalf of Government and given your post as the Minister for Immigration?

**Caroline Nokes:** You are absolutely right to point out that if we have given it to some we would be straight off to the courts for those who we had made an offer to and then they found that they could not achieve it.



## HOUSE OF COMMONS

**Chair:** That is extremely helpful. I am very grateful.

Q2224 **Sammy Wilson:** When we were taking evidence on this there were two things that were raised. First, early notification to people that they had to make the application, and then secondly, the method of application. Given the record that there has been in the past, whether it was changing the pension arrangements for women, or indeed the preparations the Government are now making for Universal Credit and notifying people about what is coming down the line, what preparations are being put in place to ensure that the 3 million people who will be affected by this will be aware that, first, they are going to have to make an application, and secondly, how they make the applications?

**Caroline Nokes:** I am not going to be flippant with my first answer, but I often think that one of the best ways to keep a secret is to announce it on the floor of the House of Commons. Therefore, our making the oral statement a few weeks ago is not the best way to communicate with people. What is absolutely the best way to communicate with the 3.5 million is for us to engage with the embassies, the consulates, and with our user groups. This sounds a relatively small number, but it is growing all the time; we already have 200,000 EU nationals signed up to the Home e-mail updates on this subject. I want to see that number grow because I think when we do open the scheme widely to the public, it is important that we are able to notify them directly.

Obviously we have an important testing stage to go through first, but we are using media outlets. There will be digital media advertising, things like Facebook ads, which are very easy to target to particular diaspora community groups. We have some brilliant diaspora community groups who are working with us on developing the scheme and providing feedback. There is communication in foreign-language newspapers. I think the communication strategy is absolutely key so that people know when the scheme is open, how to apply and when to apply.

The method of application, and we have been quite clear on this, is that we, as a Government, moved to a position of digital by default, so we would like people to apply digitally. You will be able to do that on any computer, smart phone or tablet. Obviously I am conscious that there is the additional benefit of the chip-checker that can be used on Android phones, which I think is a real advantage because it is much better that people do not have to send us their documents but are able to do it all digitally. There will be other routes, such as the assisted digital, which we already have in some of our UKVI routes for application.

We are working particularly with user groups around vulnerable individuals so that they can use the assisted digital, and at different locations they will be supported through the process. Some face-to-face applications will be allowed and we are looking at ways that we can make postal routes as simple and straightforward as possible.

Q2225 **Sammy Wilson:** There will be the option of non-digital applications for



people?

**Caroline Nokes:** There will be the option. We very much hope that the will be able to help with that. I am very conscious that many of our application routes for Government services are now very heavily weighted towards digital routes, which are very popular and very straightforward. When you look at the massive increase in the proportion of people applying for their passports online, it has proven to be very successful.

Q2226 **Sammy Wilson:** Have the Government identified what possible problems there may be with the digital route that you expect 99% of the people to use?

**Caroline Nokes:** I think you are right to point out that there could be issues with the digital route. That is why, about three months ago, we set up the user group to support vulnerable people. That might be around learning difficulties, it might be around language. It could be about different age groups struggling with digital routes, but I think there are other equally challenging aspects to it, for example potential vulnerabilities to hacking. We have made it as robust and secure as we can and that is very important.

We are working across the piece to make it the most straightforward and seamless route to use, but of course I understand that there will be those who still will not be able to.

Q2227 **Sammy Wilson:** There will be options for people who either cannot or do not wish to use technology?

**Caroline Nokes:** Yes, there will, but obviously our preference is that people should—as I said, Government services are digital by default. We would prefer that to be the default route and think that it provides a much quicker and seamless service.

Q2228 **Sammy Wilson:** Even for those who do this, who are comfortable with using technology for filling in forms or whatever, there is going to be documentary proof that is required to be provided, whether it is bank statements or the range of other paper proof to show that people have been living here for some time. That itself will present some difficulties for people who are not used to scanning stuff into computers or whatever. What route does the Government see for people providing that written proof?

**Caroline Nokes:** It is important to reflect first that when it comes to people's HMRC or DWP records the Home Office will be able to access that data to be able to verify that somebody has been here for five years, so there will not be any paper proof needing to be uploaded in those circumstances. I am conscious that not everybody will have been either employed and have five years' tax records or five years' DWP records, but we will accept a range of, as you described it, paper proof. That will be on the basis that people who cannot upload it will be able to submit it



## HOUSE OF COMMONS

physically, in exactly the same way as those who fail to use a chip-checking device will be able to send their passport. It will be scanned and sent back as quickly as possible.

**Q2229 Sammy Wilson:** Are you happy that the systems will be in place to be able to deal with that combination of an application made digitally and perhaps proof provided physically by post?

**Caroline Nokes:** Absolutely, and we are onboarding caseworkers to be able to manage that process.

**Q2230 Sammy Wilson:** Will whatever system you have put in place be able to deal with people with, say, Cyrillic names, or whatever, where there is a different font or different letters? We have had evidence given to the Committee here that very often computers simply refuse to accept applications or information given in that form.

**Caroline Nokes:** I am very conscious that this is going to be an iterative process that we will learn throughout. I am reasonably confident that we have dealt with the challenges of different fonts, and alphabets that are not the same as our own. Of course there will be challenges. I am conscious that we have in the region of three years to resolve any technological problems that occur, to resolve anything that might come to light during the course. This is why we are working with user groups across the 27 EU member states so that we can address these challenges as they think of them.

**Q2231 Sammy Wilson:** For people who, say, get their applications in late or miss the deadline because of some of these kinds of issues we have raised today, will the Government regard that as reasonable excuse as to why people may miss the deadline? Will that be part of the criteria?

**Caroline Nokes:** I have always been very clear that there has to be a proportionate response to those who may have missed the deadline through no fault of their own. This would certainly qualify as not being their fault.

**Q2232 Chair:** Can I clarify, for somebody who does not possess a PC or a phone, how do they get evidence of their settled status and how do they prove it to the landlord or the employer, in the cases that Sammy Wilson has just been exploring? How does that work?

**Caroline Nokes:** I think that is a challenge. We have said that we will provide confirmation by letter for those who achieve settled status, but that is not a secure document and we have to be very conscious of that. This is one of the factors that we will work through. I do not have, off the top of my head, the number of people in this country who do have access to smartphones, PCs or tablets. Access is incredibly high but I am conscious that in the older-age spectrum there may be those who do not.

I am always reminded of a 90 year-old gentleman who came to my surgery. I asked him if he had an e-mail address. He looked at me and



## HOUSE OF COMMONS

said, "Of course I do, dear, it is much more convenient than the telephone". I think we tend to patronise silversurfers sometimes and I am very conscious that the vast majority of the population do have access to it.

**Q2233 Chair:** They will get a letter, but then when it comes to providing to the landlord or the employer, they would show them the letter but the landlord or the employer might say, "I am afraid this is not good enough". We know that happens at the moment.

**Simon Bond:** As with the actual application process where we have, as the Minister alluded to, assisted digital routes, we will have the same assisted digital routes, for those who want to use digital status, available to both employers and those they are looking to employ. It is also worth noting, for access to other services, for example healthcare or benefits, we are looking to put in place peer-to-peer services between the Government themselves so you will not have to prove your status, perhaps, to the NHS. That will be something between the Government Departments. We are looking at all of those things. We are learning from how the right-to-work checks operate. As I say, no one has to do this for two years, so we have enough time to perfect it before you have the EU citizens using it.

**Q2234 Joanna Cherry:** I want to ask about the fee for applications. The Government's statement of intent indicated the fee would be £65 for adults and half price for children under 16. When we were taking evidence about this from the 3 million, concern was expressed about first of all the direct cost of the application fee, particularly for people who have a family. There will be a number of people having to pay the full amount, or perhaps half, if the children are under 16. There was also some concern expressed about indirect costs associated with the application, such as taking time off work and travelling to appointments and the like.

We have also heard evidence from Guy Verhofstadt recently. He has said to the European Parliament that he would like to see this application fee scrapped. My question for you is why should someone who came here, exercising their right to free movement, in the expectation that they could continue to do so without any charge, have to pay £65 for a status that is being retrospectively applied to them? Is there not an argument there is something unfair about that?

**Caroline Nokes:** The £65 fee was agreed with the EU as part of the Withdrawal Agreement. It is the same fee as somebody who had applied for permanent residency would have paid prior to this scheme being commenced. I do not think it is an unreasonable fee. We always said we would peg it to less than the cost of a passport, and we have done so. Of course, if people use digital routes to apply, there is no need to travel to an appointment, there is no need to take time off work. I want this to be as quick and easy as possible.



## HOUSE OF COMMONS

**Q2235 Joanna Cherry:** There is still an argument, is there not, that people who came here in good faith, exercising their right of freedom of movement, who did not have a vote in the referendum, who have been affected by the UK's decision, are now having a charge applied to them retrospectively that they would not otherwise have had to pay? If we were continuing as a member of the European Union, there would not be any need for this scheme, would there?

**Caroline Nokes:** No, but we took a democratic decision to leave.

**Joanna Cherry:** Yes, but the people who are being charged this fee did not have a vote in that democratic decision and they are paying the price of our decision, if I may use that loosely for the whole of the UK rather than for the people I represent.

**Caroline Nokes:** But it was our decision.

**Joanna Cherry:** Yes, but my point is it was not their decision. They are paying a fee for a status that has been retrospectively applied to them by virtue of our decision in which they had no say. That is a fair statement of the position, is it not?

**Caroline Nokes:** They had no say in it, you are quite right to point that out, but we held a referendum. The decision was taken to leave. During our negotiations with the EU, they agreed the fee that we could levy. This is a fee that is less than the cost of a passport. I do not think it is unreasonable to expect people to be able to confirm their status to continue to enjoy the services that they have done so.

**Q2236 Joanna Cherry:** How much money does the Home Office anticipate recovering from these applications?

**Caroline Nokes:** I am very clear that this scheme is going to cost us more to administer than we will recover in fee income. We will undoubtedly have to spend significant sums making sure that we have the human resources and caseworkers. This is, we think, a proportionate fee to be charging, but I do not have the precise number of what we anticipate to recover.

**Q2237 Joanna Cherry:** What you are telling us is that putting in place this scheme and the administration around it is going to cost considerably more than the amount you will recoup from the fees, but you are not able to tell us how much that is at present?

**Caroline Nokes:** Yes.

**Joanna Cherry:** Will you be able to tell us that at a later date?

**Caroline Nokes:** We could probably provide that later.

**Simon Bond:** We can provide estimates. Obviously the cost will vary in terms of how people apply and what the demand curve looks like, but we can provide more estimates of that.



## HOUSE OF COMMONS

Q2238 **Joanna Cherry:** I presume you have estimates at present as to how much you think the scheme is going to cost over all and how much you are going to recoup. Certainly the Committee would be interested in seeing those estimates, if you could perhaps write at a later date.

**Caroline Nokes:** Yes. Simon makes an important point about the demand curve, and we are conscious that any projection would, out of necessity, be on a uniform demand curve, which we certainly do not expect to happen.

**Simon Bond:** We will publish estimates when we lay the rules as part of the impact assessment for that.

Q2239 **Joanna Cherry:** For some low-income families and some older people who are perhaps not in work, do you accept that the cost of applying for this status may deter them from regularising their status?

**Caroline Nokes:** I think it is very important that people do regularise their status. I do not believe that the £65 fee is excessive.

Q2240 **Joanna Cherry:** I am sure it is very important that they regularise their status, because we saw what happened to the Windrush generation whose status was not regularised. My question to you is this: do you accept that large, low-income families and older people who are not in work may be deterred from regularising their status because of these costs?

**Caroline Nokes:** There is a three-year period over which people have the opportunity to regularise their status and apply through the scheme. I do not think it is unreasonable to expect people who wish to confirm their status to put aside perhaps £20 a year in order to do so.

Q2241 **Joanna Cherry:** Have you given any thought to providing assistance for low-income families or older people who are not in work, for example?

**Caroline Nokes:** We have waived the fee for children who are within the care system, but on other routes to citizenship, which we do provide assistance with in the case of refugees, there are significantly higher fees for which a waiver is available, but at £65 we do not think that is necessary.

Q2242 **Joanna Cherry:** Would you be prepared to consider some specialist arrangements for low-income families or older people? You have halved it for children under 16. Might there not be an argument for providing that sort of dispensation for people who are on a low income and have a certain amount of family members, or indeed for older people?

**Caroline Nokes:** The Home Secretary was quite clear on this when he was asked yesterday. We do not intend to provide a waiver scheme.

Q2243 **Joanna Cherry:** The Scottish Government have asked the UK Government to commit to getting rid of this fee. What has been your response to that?



## HOUSE OF COMMONS

**Caroline Nokes:** We have no intention of getting rid of this fee.

Q2244 **Joanna Cherry:** The Scottish Government are going to meet it for public sector workers. Would you consider matching that offer?

**Caroline Nokes:** That is a matter for the Scottish Government and for them to determine how they are going to administer that.

**Joanna Cherry:** Clearly it is a matter for the Scottish Government whether or not they meet it for public sector workers in Scotland, but I am asking you whether the British Government would consider meeting it for public sector workers in England.

**Caroline Nokes:** I have been very clear in saying no.

Q2245 **Joanna Cherry:** I want to move on to another question that slightly touches on what Sammy was talking about, about how we inform and persuade EU citizens in the UK that this is something that they need to do. Can you give us an outline of what other arms of Government, the voluntary sector and community organisations you are hoping to be part of any information campaign to inform EU citizens?

**Caroline Nokes:** We have a range of community groups already working as part of our user groups, which meet on a monthly basis. Certainly we seek to include the Citizens Advice Bureau. I recently met representatives of the Local Government Association and had a very brief conversation about how it might be able to assist. We work with employers groups, and certainly recognise that large employers will have a significant role to play in this.

I do think that communication is key. It is important that we ramp up communications going forward, because obviously the scheme, I hope, will be open before the end of the year, and that is drawing very close. It is going to be important for people to confirm their status, to go through the process so that they still have ease of access to services, to the right to work, to rent property. It is incumbent upon us to work with all arms of Government, including MHCLG, the DWP, DoH, to make sure that there is good awareness across Government.

Q2246 **Joanna Cherry:** What engagement have you had with the Scottish Government and local authorities in Scotland about providing this sort of information?

**Caroline Nokes:** I had a conversation with representatives from the Scottish Government by phone on the subject. I am going to Scotland, I hope, during recess, as part of engagement with the Scottish Government, and indeed also to Northern Ireland and to Wales during recess. I think it is absolutely imperative that we work with all of the devolved Administrations, that we include them in the user groups and make sure that there is good understanding across a range of both local Government organisations and the devolved Administrations.

Q2247 **Joanna Cherry:** Accessibility to information and the ability to make



## HOUSE OF COMMONS

applications: do you accept that we need to take account of geographic variations? We have some EU citizens in quite outlying parts of Scotland.

**Caroline Nokes:** There are some quite outlying parts of Scotland that have better broadband connection than my own constituency. I am very aware of that.

Q2248 **Joanna Cherry:** I am delighted to hear you say that. I will make a note of that for the next time the British Government are suggesting the Scottish Government have not done their job on broadband.

Seriously, not just for Scotland, Minister, there will be people in all parts of the United Kingdom who are perhaps a bit more cut off from metropolises like London and Edinburgh and Cardiff and Belfast. What I am getting at is this: I understand from my colleagues in the Scottish Government that there has been some chat about involving libraries in Scotland but, so far as they are aware, only two libraries in Scotland have been spoken to so far. Clearly a library in Edinburgh, in my constituency, is not going to be any use to anybody in Shetland. I am trying to establish how far you have gone in identifying local points for people to get information across Scotland and across the UK.

**Caroline Nokes:** There have been official-level meetings with COSLA and those of course will be ongoing.

Q2249 **Joanna Cherry:** You said you were going to be in Scotland during recess. Will you be meeting with your counterpart in the Scottish Government to discuss these matters further?

**Caroline Nokes:** My schedule is yet to be determined, but when I was speaking with the representatives from the Scottish Government last week, I did make that offer. It will be about coinciding diaries, though.

**Joanna Cherry:** Excellent. I know your counterpart is very keen to meet with you, so I do not imagine there will be any problem with that providing the diaries can coincide.

**Caroline Nokes:** Good.

**Chair:** If you can get as far as Muckle Flugga on Unst, which is the most northerly point of the United Kingdom, then you will have spent a good recess. I would recommend it myself to you.

**Craig Mackinlay:** A couple of things you have said so far have caused me a few concerns. The digital link that you are proposing for people with settled status would seem to me to be a potential for a fraudster's charter for those who should not have a digital link but can claim to a landlord or a bank or anybody else, "Yes, I am the real deal. Look, I will send you the link". I cannot imagine it will be that difficult, once you know what the page that you are taken to looks like, for a fraudster to go, "Do you know what, for £10 I can do you a page that looks exactly the same and gives you the link".

For a landlord who is not that savvy—they are not that savvy, all of



them—would they know the difference? Would they then potentially have a ton of bricks thrown at them by the Home Office when they say, “I printed out the page of the link. I didn’t look at the bottom too much and it sort of looked right to me”. It would seem to me a very good idea to go to a physical card, with appropriate security features that biometric cards have, for everyone. I can imagine banks will be asking for these things, landlords will be asking for these things. In the way that these things grow like Topsy, everybody will want this because all organisations live in this rather fearful state and they tend to gold plate even what they are required to do just to be on the safe side.

Might it be a good idea, if you cannot be moved from that position, that for an extra fee—you have £65 for your status position—of £20 you can have your bit of plastic to carry around with you with a bit more security so that when you are asked for it at various things, the doctors, the bank, whoever, you can say, “There is my thing, I don’t need to provide you with a link”? As things stand—I own a property that I rent out—I would be concerned of am I being shown the real deal on a computer scheme. That was the first thing.

I have a number of other points that you have raised and I will go through them all. I was interested to note that there is a site on GOV.UK, where people can sign up and get e-mail updates. That is very good. I thought that was an excellent idea. It has a very bald statement on there, “The rights of EU citizens and their families living in the UK will not change until 1 January 2021”. In the event of a no deal or global deal and we leave the EU and go back to a WTO-type situation because they cut up rough, they will not play game, whatever reason that could be around the corner, my concern is if your system is up and running in, say, December, after testing in the autumn, and you have people apply before we leave, before 31 March, or 29 March, next year, and we end up with no deal for whatever reason. Are we going to extend those rights of EU citizens to the end of December 2020 even if the EU says, “We are not playing ball, we are not going to allow this reciprocation”, which is the common-sense position, of course. “We are not going to allow this reciprocation for yours and we are just going to be beastly and nasty.” Are we going to keep that open? I have no particular preference, I think it is the right thing to do, but in a deal, is it the sensible thing to do? It seems to me we have open-ended bits where we are not seeing reciprocation from the other side, and I am not entirely comfortable with that.

**Caroline Nokes:** Simon is going to talk to you about the security of the digital status checker.

**Simon Bond:** Just a little bit more detail on how that works. What happens is that you, as the European citizen, or today as the non-EU national, log into the Home Office using something like your passport as the known fact. What that generates is a one-time-only code. It is not an e-mail link as you describe. You pass that code to the employer. The employer puts that code in and what they see back is a very clean screen



## HOUSE OF COMMONS

that has your picture and the details that they need to know and no more. We do not think fraud is an issue there because there can be no phishing attacks with that route.

**Q2250 Craig Mackinlay:** Never mind about phishing. Someone will make up a page that has the Minister's face on it and all the details and it looks right, because I have not seen one before because I am a one-time landlord. How do I know that is the real deal?

**Simon Bond:** The code that you are given will only work with the Home Office site. It will not work with a fake site like that. We also, from the Home Office perspective, will record all usage of that. We will have a stamp that indicates to us which employer, which landlord, has accessed the registered site. It is going to be easier for landlords, who today have to have a lot of paper to record that. We will do that recording for them. It is a definitive statement as to who has looked up and whom.

**Q2251 Craig Mackinlay:** I am sorry but you are looking at the risk the wrong way around. As the landlord, I will be satisfied if I see a site with this family name on and a picture that looks like them. I would not be interested that you know, I want to be sure that I know that what I am looking at is the right thing. That is where a card that you can look at and feel and see the security bits and hold up to the light would give a bit more confidence than what could be a scammed site. It would not take me more than a day, and I am not a coder, to set up a site that looks like a GOV.UK website, and I could put a code in that you have provided and it would come up with the picture I am looking for. I am very concerned about this.

**Simon Bond:** We have had the National Cyber Security Centre assess and look at what we are doing so we are comfortable that everything we are putting in place is very secure.

**Q2252 Craig Mackinlay:** I will wait to see it and I might be able to pass comment then. The other thing is about these different dates that we seem to have got ourselves into before we have a positive deal.

**Caroline Nokes:** I am very clear on this and I think the Prime Minister has been clear on it. It was a priority both for us and for the EU Commission to provide certainty for citizens. We will have all heard the narrative around people not being bargaining chips, and we have sought to send a very clear message to EU citizens living here that we will protect their rights.

Certainly the £65 for settled status is the equivalent charge to acquiring permanent residence now, which, of course, EU citizens would be able to do. We do not anticipate that we will see a rush of people applying for permanent residence and they will opt for the settled status scheme that will give them a right in UK law rather than EU law.

**Q2253 Mr Peter Bone:** There are, I believe, two lots of White Papers. There is the one that the DExEU Department originally could use, which I



## HOUSE OF COMMONS

understand went around all the Departments for approval. Can the Minister say did that White Paper deal with this issue that we have been talking about? I am sure it must have done. Then the new White Paper, which I am sure the Minister will confirm that she has seen, is it the same or different? I am surprised in your evidence you said a personal opinion. Surely these must be in the White Papers that have been circulated, which the Department has already approved?

**Caroline Nokes:** The White Paper is scheduled to be published this week and I have seen it but I cannot divulge the contents until it is published.

Q2254 **Mr Peter Bone:** No, but you could talk, Minister, about the previous one that is not Government policy anymore and you could tell it how it was dealt with then.

**Caroline Nokes:** The DExEU White Paper is scheduled to be published. I simply do not think I can comment on something, which has not yet been published, and contrast it with something that was not published.

**Mr Peter Bone:** Why can you not tell us about what was not published, which had already been around your Department for your comments?

**Caroline Nokes:** If it was not published, then it was not official Government position, was it?

**Mr Peter Bone:** What were your comments on the document that came around? That is what I am trying to get out?

**Caroline Nokes:** The unpublished document? No.

**Mr Peter Bone:** You are refusing to tell the Committee?

**Caroline Nokes:** It is unpublished, so it is not official Government policy, so I cannot discuss it.

**Mr Peter Bone:** The reason for having a humble address and getting all that today to get these documents.

**Caroline Nokes:** Has there been a humble address to get this document? I am sorry, it is a DExEU document not a Home Office document.

**Mr Peter Bone:** No, but it came around to your Department, you commented on it. I am asking what the comment was on it by your Department. I am not asking about the rest of the document. The bit that you saw and you commented on, what was your comment?

**Caroline Nokes:** I really do not think that I can provide information on a document that was not published.

**Mr Peter Bone:** I think we have been around this already with previous documents that were not published that eventually had to be published.

**Chair:** We have had a clear answer to that question.

Q2255 **Seema Malhotra:** I want to ask a slightly different question, and it



## HOUSE OF COMMONS

relates to the categories of groups that may be excluded from the Withdrawal Agreement. In the fifth report that we have had in this session, the Committee noted that certain categories of EU citizens do not appear to be covered by the draft Withdrawal Agreement. In evidence to the Home Affairs Select Committee, Philip Rutnam had said that we are still considering the position of those groups. Could I ask specifically, therefore, what is the UK going to do about those groups, such as Zambrano carers?

**Caroline Nokes:** If you will give me a moment while I flick to the correct page on the specific legal requirements on the carers. There is a selection of judgments that there have been and whether the Withdrawal Agreement requires us to protect their residence rights. Zambrano carers specifically are not covered by the Withdrawal Agreement, but the statement of intent, which was published several weeks ago now and lodged in the library, confirmed that provision will be made in the immigration rules and that we are going to set out further detail in due course. We have, quite unusually, published the draft rules for comment and consultation because we want feedback from both stakeholders, those who may be affected by this, before we publish the full rules, which we expect to be laid before the House pre-recess.

Q2256 **Seema Malhotra:** When would you be looking to have some conclusion of that consultation in terms of what that will mean for policy?

**Caroline Nokes:** The rules obviously will be an opportunity for the House to vote on them. When it comes to the Zambrano carers in particular—that is in the case, for those who are not sure, the non-EU primary carer of a British citizen—it is important that we make sure that they have the ability to continue in their role. This is something that I take seriously but we are not yet in a position to provide further information on that.

Q2257 **Seema Malhotra:** Is it the same situation for the Chen and the Teixeira groups that were also referenced?

**Caroline Nokes:** The Withdrawal Agreement requires us to protect their rights, unlike the Zambrano carers, who are not covered by it. The statement of intent confirms that provision will be made in the immigration rules, which is when we will be setting out the full detail on that.

Q2258 **Seema Malhotra:** How many other similar situations would you say there are where the rights of carers or the children could potentially be diminished as a result of the UK leaving the EU?

**Caroline Nokes:** I think there are three main areas where there are derivative rights of residence: the Zambrano carers, the Chen and Ibrahim provisions that were in, and also Surinder Singh, which is one of the better known ones, which is where a British citizen has married a non-EU national and has been exercising their Treaty rights in one of the other 27 member states. The Withdrawal Agreement means that people who are considered to be Surinder Singh family members are not covered



## HOUSE OF COMMONS

by the Withdrawal Agreement but as a matter of domestic policy they will be eligible to apply under the settled status scheme.

**Q2259 Mr Pat McFadden:** I want to ask you about a reference in the Chequers proposal, point i on the list. It talks about a mobility framework. Can you tell us what a mobility framework is?

**Caroline Nokes:** I am sorry, I did not quite hear that.

**Mr Pat McFadden:** Point i of the Chequers proposal talks about a mobility framework. Can you tell us what a mobility framework is?

**Caroline Nokes:** It is perfectly sensible, after we leave the EU, for us to want to make sure that both EU citizens can travel here and British citizens will be able to go to the EU. We have many countries that we do not require visas from to come here. For visitor travel, I would certainly very much hope that we can make sure that there is an agreement with the EU so that EU nationals can come here on visits and that we will be able to go the EU 27 without requiring a visa. I think that is very straightforward.

Going forward, the Immigration Bill, when that comes forward, will turn off free movement. Therefore, we will have to make provision in the future Immigration Bill for people from the EU to come here for business visits or to work should they wish to. That is very much a matter for the future immigration policy. We are very clear free movement is going to end but that does not mean that movement between UK citizens and EU citizens will end, and we will have to find a mechanism whereby there can still be mobility.

**Q2260 Mr Pat McFadden:** Is there an arrangement between the UK and another country at the moment that we could look to as an example of this mobility framework?

**Caroline Nokes:** A good example of mobility agreements are our youth mobility schemes, which we have with eight different countries, including Australia, New Zealand, Canada, to name but three of them, Monaco is a fourth, where people can travel to those countries for a period of two years and work. Equally, we will accept people from eight separate countries, under the age of 30, to come here and work for a period of two years. That is an example of a type of mobility framework that has worked very well.

We also have to be realistic that when we leave the EU we have to have an immigration policy that puts us in control of our borders, that enables us to determine what numbers of people may come here to work, what sort of skill level is required, and that, of course, is something for the future Immigration Bill.

**Q2261 Mr Pat McFadden:** Will this mobility framework give any preferential access to EU citizens or is it likely to treat EU citizens on the same basis as citizens from anywhere else in the world?



## HOUSE OF COMMONS

**Caroline Nokes:** We have been very clear that free movement is going to end and we will be able to go and negotiate free-trade agreements around the world. It is possible that part of that may include elements of mobility, but that could just as well be with other countries around the globe. It could be with the EU going forward; it need not be.

Q2262 **Mr Pat McFadden:** That is not quite what I was asking. What I was asking was in this mobility framework that we want to have with the EU, is it Government policy, even if free movement is ending, that in the future people from the EU will be treated in exactly the same way as people from, say, Australia, Canada, India or wherever, or is there likely to be preferential access for EU citizens because of the overarching agreement we hope to reach with them?

**Caroline Nokes:** There will be more published in the DExEU White Paper, which is due this week. It is important that free movement ends and we set our own immigration policy with different countries across the globe.

Q2263 **Mr Pat McFadden:** Is it likely that someone from the EU will require to have a job or a job offer under this mobility framework or not?

**Caroline Nokes:** That is a matter for future immigration policy.

Q2264 **Mr Pat McFadden:** Will there be rights for family members under this mobility framework or is it likely to apply only to workers?

**Caroline Nokes:** This is absolutely a matter for the Immigration White Paper, which will come forward in the autumn.

Q2265 **Stephen Kinnock:** I want to pick up on Mr McFadden's question there. He referred to point i in the Chequers declaration but I was wondering about your thoughts on point h, where it says that free movement will be ended, "Giving the UK back control over how many people enter the country". Is that a commitment, therefore, that there will still be a quota, a total number of people, the Government will still have a target number for how many people enter the country?

**Caroline Nokes:** It does very clearly say that free movement will end, but it says it will give the UK back control. It does not put a number on it but that is an important principle, that we will be in control of our own borders, we will be able to determine our own immigration policy. The Prime Minister has been very clear that she wishes to see net immigration reduce. It has been included in successive party manifestoes, which have been successful at general elections, and that is something that I stand by.

Q2266 **Stephen Kinnock:** Just to clarify, it very clearly says there it will, "Give control over how many people enter the country". There must, therefore, be an upper limit. The Government will be continuing to set a ceiling on the number of people who come into the country.



## HOUSE OF COMMONS

**Caroline Nokes:** It does not state a number there and, of course, that will be a matter for future immigration policy.

Q2267 **Stephen Kinnock:** Yes. Assuming, then, that a number will be set, will that be based on some sort of points-based system, a quota? Will this be entirely quantitative or will it be qualitative? Will there be a set policy based on the type of people and the type of skills we want to have coming into the country or will it be purely a number?

**Caroline Nokes:** We have a long tradition of wanting the brightest and the best people to be able to come here. We do not set a limit on the number of students who can come here to study. These are all very much matters for the Immigration White Paper, which will be published after we have received the expert evidence from the Migration Advisory Committee, which is reporting in September.

Q2268 **Stephen Kinnock:** Thank you. Moving on to the point more about settled status and dealing with the EU citizens who are already in the country, I want to ask you about dispute resolution. What do you see as the institutional framework for resolving disputes between the UK and other EU countries around the status of an EU citizen who is based in this country?

**Caroline Nokes:** The Withdrawal Agreement makes it explicitly clear that there has to be an ability for independent arbitration. Until such time as we have established that, we would hope to be able to use the Chief Inspector of Borders in order to be able to do so, but there will need to be an independent arbitrator in due course. We will set out more details.

**Stephen Kinnock:** That independent arbitrator will follow the guidelines of the European Court of Justice?

**Caroline Nokes:** We will be setting out details of how they will operate in due course.

Q2269 **Stephen Kinnock:** Can you envisage any way in which the European Court of Justice's guidelines would not be the de facto framework for this?

*Sitting suspended.*

*On resuming—*

Q2270 **Chair:** We can now resume the session. Technically, we are in sub-committee but we agreed to cover that this morning because we were not quite sure how the votes were going to affect us. Minister, I think you were about to answer a question. Can you recall what the question was?

**Caroline Nokes:** The question was about the individual applicants and the Independent Monitoring Authority. You may have moved into



## HOUSE OF COMMONS

subcommittee. Can I say I am clearly left with the elite who are interested?

**Chair:** Flattery will get you everywhere.

**Caroline Nokes:** I was going to say hard-core. Then I thought, "No, I will be really nice and try flattery as an option".

The Withdrawal Agreement says there will be an independent monitoring authority to monitor the Government's implementation. That requires primary legislation to set up, so obviously we will have to do that. In the meantime, the EU Commission will continue to monitor both our implementation but of course the implementation of the EU 27 and how they are treating British citizens who are living in EU member states.

The Withdrawal Agreement is obviously incorporated in UK law, meaning that applicants can rely on it directly in front of UK courts to check that the Government is correctly implementing their rights. The Independent Monitoring Authority cannot directly refer matters but will take account of CJEU law for eight years from March 2019. UK courts may refer issues to CJEU.

Q2271 **Stephen Kinnock:** Article 152 of the draft Withdrawal Agreement is what lays out that there is going to be this Independent Monitoring Authority, the IMA. Recently in a meeting between the Home Secretary and Guy Verhofstadt, the Home Secretary pointed out that in fact the IMA is, of course, not going to be up and running before 29 March 2019. Instead, the Independent Chief Inspector for Borders and Immigration, the ICIBI, is going to play that role temporarily.

**Caroline Nokes:** Yes.

**Stephen Kinnock:** Are we not looking at a major risk here—based on everything not being agreed, and nothing is agreed until everything is agreed—that you will not have the IMA set up before exit day and therefore you would be in breach of Article 152 of the Withdrawal Agreement?

**Caroline Nokes:** I think we are content that the Independent Chief Inspector of Borders and Immigration can act in the meantime in this role.

**Stephen Kinnock:** Even after exit day?

**Caroline Nokes:** Even after exit day, but we are conscious that that is suboptimal. It does take primary legislation. You will be conscious that that is not a quick process in this place, so we have to have time to set up the Independent Monitoring Authority.

Q2272 **Stephen Kinnock:** The ICIBI is not constituted to have the powers and responsibilities that the IMA is supposed to have in the draft Withdrawal Agreement. You would be trying to put a square peg into a round hole.



## HOUSE OF COMMONS

**Caroline Nokes:** Our default position is that we wish to grant people settled status. We have been very clear on that, and this is a system that is set up for people to succeed not to fail. We want to keep those who do not go through the process successfully to an absolute minimum. The Withdrawal Agreement says that the Independent Monitoring Authority must be set up from 2021.

Q2273 **Stephen Kinnock:** The ICIBI's role is just to carry out inspections, whereas with the IMA you would be looking at conducting inquiries, receiving and dealing with complaints and, crucially, bringing legal actions before a UK court or tribunal. The ICIBI is simply not geared up to do any of that. How are you going to create—you will be in breach of 152, will you not?

**Caroline Nokes:** The Withdrawal Agreement says that the IMA must be set up by 2021. In the interim we think that the Independent Chief Inspector of Borders and Immigration can carry out that role.

Q2274 **Stephen Kinnock:** You will need them to have a radical change in the terms of reference and scope of operations of the ICIBI.

**Caroline Nokes:** We think that it is feasible that it carries out the role in the interim until such time as we can pass primary legislation to put the IMA into law.

Q2275 **Stephen Kinnock:** Is work going on, then, to increase the capacity and capability of the ICIBI?

**Caroline Nokes:** It is fair to say that across the Immigration Directorate we are very focused on the settled status scheme and making sure that we have this as a process that is up and running. As I said, we do not want people to fail, we want people to succeed, but we are currently in the process of defining the IMA role. That will include what changes may have to be made in the interim to the ICIBI.

Q2276 **Stephen Kinnock:** You will understand, obviously, that the 3 million EU citizens living here are very keen to have resolution and clarity on so many of these issues. That is why Guy Verhofstadt has written specifically to the Home Secretary on this point. Will they not be left looking at a cliff edge because there will not be a resolution mechanism in place because the ICIBI is simply not capable of carrying out these functions? Could you perhaps offer to write to the Committee and update us on what work is exactly happening for the ICIBI to be ready, willing and able, from 29 March, to take on this role, so that we can give assurance to the 3 million?

**Caroline Nokes:** I am very happy to provide an update on what work is going on, and can do that in writing.

Q2277 **Emma Reynolds:** Point h of the Chequers agreement says that we will, "End free movement, giving the UK back control over how many people enter the country". It is my understanding that it has not been agreed



## HOUSE OF COMMONS

yet that we will have visa-travel for EU citizens coming to the UK and UK citizens going to the EU. That has not yet been agreed, as I understand it.

**Caroline Nokes:** No, it is my understanding that it has not yet been agreed.

Q2278 **Emma Reynolds:** If we come to a situation—and I hope we do not get to this point but it is possible—that a French or Polish citizen in order to come to the UK for tourism needs a visa, and if we want to go to France or elsewhere that we need a visa, obviously we do not want that to happen but that is still a possible outcome of the negotiations.

**Caroline Nokes:** I think that would be an absolutely suboptimal outcome of the negotiations. There are many countries around the world, including the United States, who can come here with no visa whatsoever for their holiday. I would absolutely expect us to be able to come to agreement with the EU whereby our citizens can continue to go there on holiday and they can continue to come here.

Q2279 **Emma Reynolds:** I hope so too, but it is certainly still a scenario that we have to think about because it still could occur. Is that the case?

**Caroline Nokes:** Theoretically it could occur but it is absolutely my view, as the Immigration Minister, that that should not occur. We want to be in a position where Britain can attract tourists. We do so every year, attracting millions of people to come here and, equally, millions of British citizens go to other EU 27 for their holidays. We have no intention of putting impediments in that way, because this is not only good for our economy but it is good for the cultural experiences of our citizens and theirs.

Q2280 **Emma Reynolds:** Free movement for travel we hope will still continue. In some cases, the Chequers statement giving the UK back control over how many people enter the country is slightly misleading, because it is not about entering the country, is it, it is about whether they come in for work?

**Caroline Nokes:** For immigration purposes. I do not think it is misleading at all. We would recognise absolutely that there is a difference between people who travel as visitors and tourists and those who come and settle and stay here for a longer period. We have always been clear in our immigration policies that people who are here less than 12 months do not count on our immigration statistics. I would absolutely endorse a position where our citizens can continue to travel to the EU 27 visa-free for their holiday and ditto EU 27 come here on holiday.

Q2281 **Emma Reynolds:** I hope that is the case, because I do share the concerns of my colleague Craig Mackinlay that the digital proof that you have settled status is open to security breaches, surely, in a way that if you had a card or a stamp in your passport, then—all these things are open to a certain extent to criminal activity. I share the concerns of my



## HOUSE OF COMMONS

colleague. We do not always agree, by the way, but on this I think there are concerns.

Can I ask you about the 3.5 million EU citizens who are settled here? What level of documentary evidence will they be required to provide the Home Office to get settled status?

**Caroline Nokes:** In an ideal scenario they would be able to use a chip-checker for their passport and they would have five years of HMRC or DWP records and no single document would be required. I absolutely accept that that will not be the case for everybody, so we are looking at a range of evidence that people may be able to provide to evidence that they had been here for five years. That could include council-tax bills, utility bills, bank statements, tenancy agreements, mortgage statements, letters from educational establishments, from medical professionals. We want it to make it as wide a range of evidence as possible. One of the reasons why we have laid the immigration rules and the statement of intent has enabled people to look at what we are putting forward, the wide range of things that can be included, and indeed come to us with suggestions of what could be used additionally.

Q2282 **Emma Reynolds:** Is the onus on the individual or the family to have kept all of this documentation or will Departments of Government such as the DWP be working with the Home Office? I do not know if you have five years of bank records or five years of your payslips, but not everybody will keep these things, will they?

**Caroline Nokes:** I think that is a fair comment. Not everybody does keep these things. I sometimes bless TSB, when their website is working, because that is how I would evidence my bank statements, certainly over many years. It is a fair comment but what we in the Home Office are doing is working very closely with HMRC and DWP so that those records will be able to be automatically checked. There is already a significant amount of real-time information shared between, for example, the DWP and HMRC. Of course, people will be able to—we live in a very digital world where you can get many of your utility bills online as well. Although some people do not keep these things, many of them are obtainable after the event.

Q2283 **Emma Reynolds:** It is my experience of the Home Office—and with due respect to the Home Office because obviously you have a very tough job—for example with the Windrush case of Paulette Wilson, that documents that could have been obtained from other Government Departments were not provided to the Home Office. That is not usually the way you work, is it, so this would require a different way of working, as I understand it?

**Caroline Nokes:** I think what happened with the Windrush generation was wrong and we continue to learn the lessons of that. In designing the settled status scheme, it is important to us, first, that we give people a digital status that will enable them to evidence their right to access services, to be able to rent property. Secondly, we have learnt the lesson



## HOUSE OF COMMONS

of making sure that different Government Departments do talk to each other.

I have chaired an inter-ministerial meeting exactly on this point, because you are right to point out there was evidence from the DWP, HMRC, Department of Health that could have been used in those circumstances. Within the settled status scheme we have to make sure that those lessons have been well and truly learned.

**Q2284 Emma Reynolds:** That is good to hear. I know the Government have always had trouble with working in silos and it is better that Departments work together.

When we heard evidence from the body that represents EU citizens, one of the worries about particularly the harder-to-reach communities is that because people have come here in the last so many years from the EU, fully expecting to stay, some might take the view—and we hope they do not take this view—that they are here anyway, they have not been asked to leave and they can continue to live here whether they apply for settled status or not. Is there not a danger that in the time available for people applying for settled status, some will simply think, “I am working, everything is okay, I already rent a property, I already own a property and I do not need to apply for settled status” and that at the end of the process we might be quite some way short of the 3.5 million, that I hear, have applied?

**Caroline Nokes:** I think that is a genuine risk in the process, which is why we have been working very closely with diaspora groups and user groups. It is why we are ramping up communications. The deadline is three years from now.

**Q2285 Emma Reynolds:** Is it three years from the introduction of the scheme or is it three years from now?

**Caroline Nokes:** There is the six-month grace period after December 2020, which takes us to June 2021, so it is slightly less than three years. That is a significant period of time but of course we are going to be monitoring progress throughout to see how many of the roughly 3.5 million are registered. I think we would be well advised to increase communications and work with employers more intensively if we think there is going to be a significant shortfall.

We have said previously that if people have not applied for good reason, we will take a proportionate approach to that. Our view is very much that we want people to register, we want to make the process as easy as possible. Where necessary we will help them through the process, because one of the lessons that we have learnt from Windrush is that people who cannot evidence their status easily could potentially, some years down the line, find themselves in a very, very difficult position. We want to do our absolute utmost to avoid that happening.

**Q2286 Emma Reynolds:** Would it not be possible, for example, for the DWP,



## HOUSE OF COMMONS

who write to people about their benefits, or HMRC who write to people every year about their taxes, to advertise that they need to get settled status? Could you not use other arms of Government to get the message out there? Is that something you are planning?

**Caroline Nokes:** We are working very closely with all arms of Government on communication. Certainly I have the pleasure of attending interministerial meetings with both DexEU and the Cabinet Office and interestingly we hear from all Government Departments about preparations but the issue of citizens has specifically come up recently with MHCLG, which I do think is an important partner because we would all recognise that when people are vulnerable, they often turn to their local council for assistance. I think we have an important piece of work to do to make sure that local government is aware of how citizens can register for settled status. I am reluctant to place burdens on local authorities, but I would like to think that they would be able to work with us, helping those in their communities who are most vulnerable.

**Q2287 Emma Reynolds:** One last question. When we heard evidence from UK citizens living in the EU, one of the key demands that they had is that they moved in good faith to another EU country—not an island, so they may live in Luxemburg and work in Belgium or France or they may live in Belgium and work elsewhere across the border—and they are very keen that they should keep their rights to free movement within the EU. Is that something that Government is pushing for on their behalf, given that they are UK citizens?

**Caroline Nokes:** There is a really important point here, which some of you will have heard me say in Chamber, that we have invested a lot of thought, time and resource into making sure that we have a scheme that is literally moving into the beta testing mode, that is ready to go, and is going to provide status for EU citizens living here. In my engagement with counterparts from the EU 27, I always ask the question, what are they doing for UK citizens living there. We did negotiate with the EU—you make a really important point about people living in the EU 27 and their mobility going forward—and the EU refused to agree that. I am very conscious that UK citizens living in the EU cannot point to a scheme like the one that we are producing for their onward security.

**Q2288 Chair:** On that point, it is quite clear that a lot of thought, effort and energy, as you have described to us today, has gone into preparing the scheme so that EU citizens here can achieve settled status. From what we have been able to gather, it does not seem as if the other 27 member states are anything like in the same place. Do you have a view as to why that is? Talking to them and saying, “Oy, what plans are you making so that Brits living there can get their settled-status equivalent?”, is that a Home Office lead, is it a DexEU lead, is it an FCO lead? How is that being done?

**Caroline Nokes:** That is very much across Government. This is a message that many of my colleagues are reinforcing with any



## HOUSE OF COMMONS

engagement that we have. It is certainly something that I have, over the past few months, raised with some of the Baltic ambassadors, with the Romanian ambassador most recently. If you want my gut instinct, I think it is about scale. We have 3.5 million EU citizens living here and there are significant numbers of UK citizens in Spain and France, but many of the other EU 27 are looking at much smaller numbers. Obviously when you are looking to register 3.5 million people, it is a significant operation. Of course some EU member states will already have ID cards, which citizens living there will have registered for, so they will be able to evidence their ID in those countries.

**Q2289 Chair:** But is it the Government's view that the other member states should speed up their preparations so there is certainty and clarity?

**Caroline Nokes:** I would very much like to see that, yes.

**Q2290 Chair:** You would. Okay, that is very helpful.

You have said that caseworkers will be able to exercise discretion in favour of the applicants so let me just give you a for instance, going back to the point about documentation that Emma Reynolds was pursuing a moment ago. EU citizen and partner; they have a daughter; they have home-schooled her for five years so she has none of the documents that you have alluded to, which many people do have, and the GP refuses to provide a letter. Now there are GPs who do, as I am sure you will know, refuse to provide letters to constituents of ours, or charge, and some people cannot afford it. What does a caseworker do in that instance—because children do have to make separate applications—to prove the child's application is valid and will be granted settled status along with her parents?

**Caroline Nokes:** In the first instance, for the child you would look to the parents' status and the evidence that they had provided that they had been in the country. Although it cannot be a single application for families—it has to be an individual application for each member of the family—family cases can be considered as a group by caseworkers. Provided the child can prove the relationship to the parents, then that is going to be acceptable.

**Q2291 Chair:** Would a birth certificate do it?

**Caroline Nokes:** Yes.

**Q2292 Chair:** You would not require a DNA test, for example?

**Caroline Nokes:** No.

**Q2293 Chair:** So a birth certificate would do it?

**Caroline Nokes:** Yes.

**Q2294 Chair:** Right.

How would caseworkers, who have obviously been told to apply the rules,



## HOUSE OF COMMONS

and we have seen some cases where applying the rules can end up, how are you going to show to them that they have this new thing called discretion in favour of the applicant? What is it going to look like? What will it mean to a caseworker who has maybe been dealing with other applications in the past and now find they are dealing with EU citizens?

**Caroline Nokes:** There are only three requirements: residency, and we have set out in the statement of intent a wide variety of ways in which individuals can evidence their residency; identity, so preferably a passport, but I am conscious that there are some nationalities, Italians for example, who might only have an ID card and that would be acceptable, although obviously it does not have the chip, so that will be a matter of sending it in and it being sent back to them, and; no criminality. We will be able to conduct standard police national computer checks as to when people are asked to declare whether they have any serious criminal convictions and by that we exclude trivial things like motoring offences. If those three requirements can be met, absolutely then somebody will be granted settled status.

I think you are right to point out that the presumption of yes, and discretion being given to caseworkers is a new concept, but that is why we are onboarding caseworkers early, why they will receive comprehensive training, and it is important to us that we recognise that this is an offer that we have made to EU citizens that we will stand by and we want this to be as easy a process as possible. We expect most people to achieve their settled status will a minimum of problems.

Q2295 **Chair:** Will the caseworkers who work on this be the same people who have been dealing with residence cards applications for EU citizens in recent years, or will it be a different group of people?

**Caroline Nokes:** Some will, some won't.

Q2296 **Chair:** Some will, some won't. You will be aware of this: the last time I looked at the figures, January of last year, I think, about 30%—I seem to recall this figure—of applications for EU residence cards were being refused because of a lack of documentation covering the whole of the period that people said they were living in the country. That is quite a shift from saying you cannot itemise where you were every month for the period of your claimed residence, therefore we refuse you a residence card, whereas here this is, as you have described it, a very, very different approach, requiring less documentation. I wonder how those caseworkers will be trained to move from one mindset that they have been asked to apply, to the one that you are describing.

**Caroline Nokes:** One of the significant hindrances on the residence card was the requirement for comprehensive sickness insurance, which we are not asking for from EU citizens, so we expect that to resolve a significant number of problems that we might have seen previously.

I think you are right to point out that it is not in every case that caseworkers make the right decisions and sometimes, I am sure, both as



## HOUSE OF COMMONS

a constituency MP and indeed now as the Minister for Immigration, I look at some cases and raise my eyebrows, but it is, I think, absolutely incumbent upon us that we make sure there is comprehensive training of caseworkers. The requirements for settled status are so significantly lower in terms of ID, residency and non-criminal behaviour that I think it should be perfectly reasonable within the timescale to have caseworkers up to speed and able to make these decisions.

**Q2297 Chair:** Have you yet decided which criminal offences are the ones that you want to have declared?

**Caroline Nokes:** My answer on that I simply have not considered which criminal offences we want to have declared. We have said "serious criminality" and I would imagine this is the same benchmark that we currently use, so sentences of more than 12 months or three lesser convictions could lead us to a position of refusing residency now and I expect us to be in a very similar position for settled status.

**Q2298 Chair:** If you follow the current approach, will that be an absolute refusal; there will be no exercising of discretion, once you have checked?

**Caroline Nokes:** No, we will have to look at individual circumstances.

**Q2299 Chair:** You will.

**Caroline Nokes:** Yes.

**Q2300 Chair:** How do you propose to weigh that up in cases of criminality?

**Caroline Nokes:** I am going to pass over to Mark there.

**Mark Doran:** Thank you, Minister.

The existing EU public policy test requires us to look at each individual set of circumstances. There is no absolute threshold. It is about a genuine, present and sufficiently serious threat to the UK. In general that is a serious offence; one serious offence of the type the Minister alluded to, or a number of less serious crimes. The caseworker also needs to take into account things like how long ago the offence was, and the conduct of the person since the time of that offence or conviction. The public policy test is not black and white. What we are doing under the Withdrawal Agreement is assessing any criminal convictions before the end of the implementation period under the EU public policy test and any criminal convictions committed after that point, under the UK test, which is more black and white, and that is very clear; if you have had a 12-month sentence, you will be considered for deportation.

**Q2301 Chair:** Right. But individuals, as is the case currently, could then seek to challenge that under Article 8, depending on how long they had been here.

**Mark Doran:** Absolutely.

**Q2302 Chair:** Are you proposing to publish performance indicators of how you



## HOUSE OF COMMONS

handle all of this—the number of applications, speed of response, rates of refusal, that kind of thing?

**Mark Doran:** The thing that we hope to do is have almost real-time information when people are applying. On the first application page, it will be clear to people—a standard application at the moment is taking X long for us to process—to be able to give people a guide. Of course, one of the things that we are going to have to do is manage demand over the course of almost three years.

Q2303 **Chair:** That was in the very helpful briefing that we had, that an indication would be given to individuals. I am thinking more about us as members saying, “How many applications have you had overall? What is the approval rate?”

**Caroline Nokes:** I do think that we have to do that. We have not yet set out how we plan to do it but I do think that would be useful both for the scrutiny of the scheme by individual Members of Parliament and indeed for the public.

**Chair:** Thank you. I do want to come back to the question of future policy, but first Craig Mackinlay has one more question.

Q2304 **Craig Mackinlay:** Briefly: I do not have any knowledge of what systems currently exist within the Home Office and I don’t know if the systems can cope with this at the moment but say you have a very simple case, somebody who has worked here for five years, they have a clear HMRC National Insurance transactional record, they may be known to the DWP, Child Benefit, for instance. Would that almost happen automatically without the human hand being involved? Then you have the criminal record check. Can all that happen and flow through on an automated basis now, or will it require an operator to go and check that and then they will need to go and interrogate that computer, and so on, and then interrogate that one, or is this fairly seamless at the moment? It is probably a big ask and I can guess what the answer is.

**Caroline Nokes:** All applicants over the age of 10 will be checked against the UK’s national police database and applicants aged 18 or over will be asked about their criminal history in the UK and overseas, which we can check. In some cases we may seek to verify declared international convictions where there are grounds for doing so. The criminality element requires the human hand.

Q2305 **Craig Mackinlay:** It does.

**Caroline Nokes:** Yes.

Q2306 **Craig Mackinlay:** What about if they have committed crimes abroad? I have sat as a magistrate for 12 years and it is meant to be the case that you can be, or should be, provided by the CPS with the criminal record abroad. I have seen it twice. It does exist but it seems to be very difficult to get hold of. I can understand that it is a bit simpler to get the UK criminal record but would it be possible to get the foreign ones? Is that



## HOUSE OF COMMONS

data at your fingertips?

**Caroline Nokes:** The Withdrawal Agreement allows us to ask other EU countries about foreign criminality.

Q2307 **Craig Mackinlay:** Would that be part of your standard process?

**Caroline Nokes:** Where there was reason to consider that that was necessary, yes.

**Craig Mackinlay:** Okay. Just be mindful of that risk, I would advise.

Q2308 **Chair:** Finally, we have taken a lot of evidence during the course of the Committee's work and one of the things that come across very strongly from businesses is the importance of having the right people to run their businesses successfully. I suppose this goes back to a point that was being raised earlier; we have the Government's net migration target here and we have the needs of business over here. Thinking about the Government's net migration target, the famous "tens of thousands", have you done any economic assessment? I am not asking about future immigration policy, because quite rightly you have said that we will have to wait for the White Paper this week, tomorrow maybe, for the Government's immigration proposals, but have you done any economic assessment of the impact on British businesses of reaching the net migration target? By definition, supplies of labour that are currently coming in, in different sectors of the economy, from picking vegetables to doing heart operations, would diminish in order to achieve the target. Have you done an economic assessment, either when the target was first set or subsequently, that you as Minister for Immigration are aware of?

**Caroline Nokes:** Specifically the Migration Advisory Committee is looking at the impact of EU labour flows, both sectorally across the UK economy and for different regions of the UK. The Committee reports in September and I think that is going to provide us with some really important and interesting information. It is why I have consistently said that the immigration White Paper and the Immigration Bill should follow that because I tend to believe in evidence-based policy making and I am very conscious that we have to make sure that post EU exit, British business has access to the labour that it needs in the sector that it needs it and at the skill levels that it requires. Leaving the EU will give us the ability to determine that for ourselves.

Q2309 **Chair:** Do you think that achieving the net migration target of tens of thousands would have a beneficial effect on British businesses, or not?

**Caroline Nokes:** I do think it is important that we reflect on the outcome of successive general elections where the migration target has been made very clear but we also have to reflect on the evidence that the Migration Advisory Committee is going to bring us in September and look at what levels of migration are needed to make sure that we have access to the labour force that we require, wheresoever in the world that labour force may come from, and, of course the measures that we must take



# HOUSE OF COMMONS

here, within the UK, to make sure that we have our own people adequately trained and skilled to take up the roles that are needed.

**Chair:** Right.

Thank you very much for coming this afternoon, and for answering all our questions so fully. We appreciate that, Minister, and also Mr Doran and Mr Bond.