

Lord Wood of Anfield
European Affairs Committee
House of Lords
London
SW1A 0PW

Dear Lord Wood,

Rights of EU citizens in the UK and UK citizens in the EU under the Withdrawal Agreement

Thank you for your letter of 25 May, which follows on from your most recent work on citizens' rights and the oral evidence session on 16 May. In responding to your letter, I have engaged with the Foreign, Commonwealth & Development Office (FCDO), given its responsibility for the rights of UK nationals residing in the European Union.

Your questions are addressed beneath each of the issues you have asked us to consider.

We ask you to set out your assessment of the current overall state of affairs regarding the rights of EU citizens in the UK and UK citizens in the EU.

Citizens' rights remain a priority for the Government and we take our Withdrawal Agreement (WA) commitments seriously. The UK has also in several respects taken a more generous approach than the WA requires, reflecting our concern to ensure that all EU citizens who made the UK their home before the end of the transition period could continue their lives here.

In our view, the UK's implementation of the citizens' rights provisions of the WA has been a success, especially considering the scale of the task. The EU Settlement Scheme (EUSS) has concluded more than 7 million applications - much higher than predicted at the time - and issued more than 6.2 million grants of status, to 31 March 2023. However, more than two years since the 30 June 2021 application deadline for those resident in the UK by the end of the transition period, we are seeing more speculative and abusive applications and refusal rates are increasing. We are determined to protect the integrity of the scheme and will take whatever steps are necessary to ensure that.

We also continue to provide a range of support for applicants to the EUSS, particularly those who are vulnerable, and our approach remains underpinned by clear, public guidance. This will continue as we implement the December 2022 High Court judgment in relation to pre-settled status under the EUSS.

We are pleased that so many UK nationals and their family members have obtained new residency status or documents in the Member State that they reside and recognise individual successes in Member States. However, there remains much to do there, including securing greater clarity in the Member States operating a constitutive scheme for obtaining WA residency status as to the scope for late applications. We will continue to press issues of concern at both bilateral and EU levels.

We also acknowledge the progress made on the protection of rights of UK nationals, including fewer problems accessing residency schemes and when travelling. However, there is still much to do, and serious shortcomings remain in several Member States. This includes the need to resolve key systemic issues and additional complex technical concerns, such as the variable quality and availability of reasonable grounds guidance for late applications, and the uncertain status of UK nationals who are required to submit a second application. We will continue to press issues and concerns at both bilateral and multilateral levels – and urge Member States to adopt an approach closer to that taken by the UK in terms of clarity and transparency on how the Withdrawal Agreement is being implemented.

The European Commission and Member States must put greater emphasis on resolving these issues and put in place consistent guidance and processes across the national and local authorities responsible for implementing the citizens' rights provisions of the WA.

We engage directly with Member States and the Commission regularly, including through the Specialised Committee on Citizens' Rights. While we are grateful for the cooperation and engagement of the European Commission, we continue to urge them to regularly scrutinise and resolve issues of implementation by Member States to ensure the protection of UK nationals and their family members, mirroring the role of the Independent Monitoring Authority in the UK.

EU citizens' rights in the UK

We ask you to confirm that, in line with the High Court judgment of December 2022, changes will be made to the EU Settlement Scheme without further delay that will ensure that there can be no loss of rights for EU citizens at the point at which an individual's pre-settled status is due to expire as a result of failure to apply for settled status.

We ask you to provide us with an update on the Government's proposed approach to giving effect to the High Court judgment of December 2022.

We are working to implement the December 2022 High Court judgment as quickly as possible and in such a way that it will continue to be easy for EU citizens to evidence their WA rights in practice. We will be taking steps to amend the digital status of those with pre-settled status under the EUSS to clarify that their right to stay does not expire after five years and to ensure that they can continue to use their digital status to evidence their WA rights. There will be no loss of rights for pre-settled status holders at the point at which that status would have been due to expire, where

they have not applied for settled status. All those affected, together with relevant stakeholders, will be made aware in advance and provided with appropriate reassurance.

In the meantime, our approach remains to encourage pre-settled status holders to apply for settled status as soon as they are eligible to do so, as the best way of evidencing their right of permanent residence. This is entirely consistent with the High Court judgment, which acknowledged the value to the person of applying for settled status and thereby obtaining secure evidence of that status and made clear that the Home Office could still encourage such applications. Our most recent quarterly statistics to 31 March 2023 show that people are still applying to upgrade to settled status, with more than 63,000 people moving from pre-settled to settled status in the first three months of this year alone – taking the total number of people to do so to nearly 550,000.

I can also inform you that, as of 6 March 2023, we began to issue the planned email reminders to pre-settled status holders. These encourage them to apply for settled status once they become eligible and detail the benefits of settled status. While it is correct that the effectiveness of these reminders relies on individuals keeping their contact details up to date, the onus remains on them to do so in order to ensure they receive important correspondence from us.

We ask you to reassure us that, if an upgrade from pre-settled to settled status is still required, there will be funding available to support individuals with these applications, equivalent to that made available during the initial phase of the EUSS.

Since the public launch of the EUSS in March 2019, the Home Office has made available £32 million in grant funding to a UK-wide network of civil society organisations and their partners to support vulnerable people in applying to the EUSS (noting that there was no comparable funding from the EU). This funding has enabled the Home Office, alongside the grant-funded network, to engage with vulnerable individuals to ensure they can access the support needed to apply to the scheme. The network has now helped more than 490,000 vulnerable people apply to the EUSS. This is in addition to the outreach and advertising that was funded at the time, costing around £3.75 million.

We remain committed to supporting vulnerable citizens who are eligible to apply to the EUSS. We recognise the importance of continuity of support which is why we are continuing to fund this work for this financial year and the next.

In addition to the support provided through Home Office grant funding, there continues to be support for vulnerable applicants available through the Resolution Centre, which provides telephone and email assistance to applicants, and through the Assisted Digital service, which provides support for those completing the online application process (again, we are not aware of equivalent services being offered by the EU). Beyond that, there are several hundred organisations registered with the

Office of the Immigration Services Commissioner which provide free immigration advice, including for those applying to the EUSS.

I am therefore confident that there will continue to be a sufficient level of support available across the UK to ensure vulnerable citizens can access the EUSS.

We ask you to provide us with an update on the number of applications that are currently pending a decision and the categories that these fall into, including how many are late applications, how many are pre-settled status holders applying for settled status and how many are applications for joining family members of holders of settled status.

We do not publish specific data on pending applications, although indicative figures can be derived from the published statistics. Those to 31 March 2023 show that, of the 7,221,650 applications received, approximately 98% (7,054,720) had been concluded. This is especially remarkable given that the March 2019 Impact Assessment gave an indicative range for the volume of initial applications of 3.5 – 4.1 million. The Impact Assessment is available at:

[The Immigration and Nationality \(Fees\) \(Refund, Waiver and Amendment\) \(EU Exit\) Regulations 2019 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukui/2019/0000/regulations/2019/1161/contents)

The published statistics to 31 March 2023 also provide data on applications made after the 30 June 2021 application deadline for those resident in the UK by the end of the transition period, which show that, of the 1,169,760 applications received after this date, around 88% (1,025,140) had been concluded. The application figures, conclusion rates and breakdowns for late applicants, repeat applicants (including those moving from pre-settled to settled status), joining family members and derivative rights-based applicants are all available within the published quarterly statistics, at tab EUSS_POST_30_JUNE at:

[EU Settlement Scheme statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/eu-settlement-scheme-statistics)

We ask you to provide clarification about the ability of individuals with pending applications to the EUSS to access benefits and to apply for documents such as driving licences, EHIC cards and national insurance numbers.

With respect to benefits, those in scope of the WA who have a valid pending application to the EUSS can access benefits and apply for a national insurance number on the same terms as before the UK left the EU.

When claiming income-based benefits, including Universal Credit, and Child Benefit, individuals are required to evidence that they are exercising a qualifying right to reside – in line with the EU Free Movement Directive – as well as meeting the other eligibility requirements. Individuals who have been exercising a qualifying right to reside in the UK in line with the EU Free Movement Directive for five years are also able to access benefits.

Where EHIC cards are concerned, to avoid delays it has been Department of Health and Social Care policy to provide a Provisional Replacement Certificate (PRC) to individuals with a valid pending application to the EUSS rather than an EHIC card. PRCs offer exactly the same healthcare entitlements as an EHIC card and are a formal eligibility document under the WA. The NHS has recently launched a new online application process which makes it more straightforward to access a PRC.

This approach was introduced to ensure that those with a valid pending EUSS application have access to UK-funded necessary healthcare, whilst ensuring value for money for the taxpayer by not providing coverage to people who are not entitled to it following a negative EUSS application outcome. However, the DHSC recognises your concerns and is considering further options, including strengthening communications.

We do not believe that the equal treatment provisions of the WA extend to the issuing of driving licences. Therefore, individuals with a valid pending EUSS application are not able to use their Certificate of Application (CoA) to obtain these.

We ask you to indicate what additional resources have been allocated to address the backlog of applications that had built up by the end of 2022 and what steps have been taken to ensure that there are sufficient resources in place to handle more complex cases efficiently.

As set out above, indicative figures on pending applications can be derived by using the published statistics. These show that, despite consistently high application volumes each month (approximately 55,000 on average in 2022), the number of pending applications reduced throughout 2022. To 31 March 2023, there were approximately 167,000 pending applications, compared to approximately 275,000 to 31 March 2022¹ – a 39% decrease. High ongoing application volumes mean that some pending applications will have been recently made.

The number of staff working on the EUSS has remained largely consistent, although numbers can change depending on business priorities. There are currently approximately 1,300 Home Office staff who work on the EUSS. In addition, approximately 300 staff are in post to provide assistance to applicants with any questions about the scheme or who need help applying.

Staff have processed more than 1.6 million applications since the 30 June 2021 deadline, which will include more complex cases.

We ask you to provide us with an assessment of the operation of the digital-only system for proof of (pre)-settled status to date, and to update us on what steps have been taken to ensure that the digital proof of status system is reliable and can be accessed straightforwardly. We ask that in your response to this letter you set out the Government's detailed justification for continuing to deny individuals the option of a physical document and your view on the possibility of making such a document available, including the estimated cost

¹ [EU Settlement Scheme quarterly statistics, March 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-march-2022)

implications, assessed against the advantages to holders of (pre)-settled status.

We reiterate the view expressed in our 2021 report that holders of (pre)-settled status should have the option to request a physical proof of status document and ask you to give further consideration to this proposal.

We have consistently set out that we are working towards a border and immigration system that is digital by default, and immigration status, in the form of an eVisa, is part of this – this will ultimately apply across the board, not just to those under the EUSS. We live in a digital age and immigration systems across the world are moving online. Given the benefits of eVisas, as well as removing the need for physical visas and biometric residence permits, we are also planning to remove any need for physical biometric residence cards.

An eVisa has significant benefits over a physical card:

- An eVisa is more secure as it cannot be lost, stolen or tampered with, and it is also more suitable for those with some disabilities.
- People receive their eVisa immediately once a decision has been made on their application. There is no wait for a physical document to be dispatched, collected or received. They can also view and share their entitlements immediately.
- We are taking steps to reduce the number of circumstances in which individuals need to provide evidence of their immigration status, by developing services to make the relevant immigration status information available automatically through system-to-system checks with other government departments and the NHS. This means at the point at which a person seeks to access public services, the service provider will check their immigration status directly with the Home Office, removing the need for the individual to prove their status. Currently, this includes services from the Department for Work and Pensions (DWP), HM Revenue & Customs (HMRC), the Driver and Vehicle Licensing Agency, Social Security Scotland, NHS England and Wales and Islington Council (and access will also be rolled out to other local authorities in the near future).

In addition to an eVisa, individuals still receive written notification of their immigration status, by email or letter. They can retain this document for their own records and can use it when contacting the Home Office, but they cannot use it to prove their right to work or (in England) to rent. This is because an email or letter is not a secure document and may not be up to date. It is therefore not an acceptable form of evidence of someone's immigration status.

If a person loses access to their UKVI account and so cannot view or share their eVisa, they can recover it by contacting the Resolution Centre, open seven days a week. By contrast, if a person loses a physical document, they are required to apply for a replacement document and pay a fee and may be required to re-enrol their biometrics. They must then wait for a replacement physical document to be printed

and issued, whereas access to an eVisa can be regained as soon as access to the UKVI account is restored.

The Resolution Centre can support customers through their online journey by helping them to access or recover their UKVI account; to update their personal details; and to share their status if they are unable to do so themselves. The Resolution Centre is also able to assist customers experiencing any technical issues with their eVisa and, where necessary, enable a person's status to be verified through alternative means.

I would also emphasise how providing immigration status information online, rather than using a physical document, has enabled us to simplify and standardise the system of checks for third party checkers, such as employers or landlords, by providing information about an individual's status in a format that is easy to understand and accessible to all users. This has also removed the need for them to interpret myriad physical documents, complex legal terminology or confusing abbreviations. It also puts individuals in control of their own data, because it allows them to view the status information that will be shared with checkers and contact the Home Office if they believe it is incorrect, before sharing it. It is also in line with the principles of data minimisation, only sharing the information required by a checker, rather than all the information held on a physical card.

We monitor the use of the online status services, including through user feedback, research and testing. This feedback is used to inform improvements to the services. We also monitor usage volumes and user satisfaction scores for our online services and publish them as part of the Home Office's transparency data. This is listed under the heading 'Transaction Explorer data' at [Migration transparency data - GOV.UK \(www.gov.uk\)](https://www.gov.uk/migration-transparency-data). Most users can generate and check share codes quickly and easily.

We are committed to continuously improving our services based on feedback from users. As an example, based on feedback from users (both status holders and third-party users of checking services) that share codes often expired before they could be used, the validity duration of View and Prove my Immigration Status, Right to Work and Right to Rent share codes was increased from 30 to 90 days. This helped reduce the need for third parties to contact the person to ask them to generate a fresh share code, whilst maintaining the principle that third party access to a person's immigration status should not be indefinite.

We continually track and fix technical errors in the View and Prove and Update my Details service. Recently, we have:

- Ensured that if an individual submits a second EUSS application after being refused, they will see their CoA for the second application, rather than the refusal of the previous application.
- Provided a fix for individuals who hold pre-settled status and then apply for settled status. Previously, they were seeing a CoA when they should have continued to see their pre-settled status. These individuals will now see their extant pre-settled status.

- Performed a data clean-up to separate people whose identities had been merged due to closely matching biometrics (e.g., twins).

We understand concerns that some individuals with protected characteristics may find it harder to access online checking services. We have considered equalities issues in relation to the use of the right to work and rent checks in the Equality Impact Assessment at:

<https://www.gov.uk/government/publications/digital-only-right-to-work-and-rent-checks-equality-impact-assessment/digital-only-right-to-work-and-rent-checks-equality-impact-assessment-accessible>

After representations from external stakeholders, we carefully considered whether we could use an approach similar to the COVID-19 certification to issue physical proof of status, using a QR code, alongside digital evidence of status. We considered a wide range of factors, but using a QR code in the context of demonstrating vaccination status is not equivalent to using it to show real-time immigration status, since a person's immigration status can change in a way that their vaccination status cannot. The information on an insecure printed document, even one validated by a QR code, would also not be a secure method of sharing and proving a person's up-to-date immigration status in a way that gives confidence to the status holder and the checker. It would open the system up to potential fraud and abuse because the QR code would not be sufficient to verify the identity of the document holder. Our reply to the3million on their detailed QR code proposal provides a full explanation and is available on their website at:

<https://www.the3million.org.uk/library>

We acknowledge that some users may find it harder to access their immigration status information online. In such circumstances they can call the Resolution Centre to have their status explained to them and, if required, a share code generated for them, which they can then pass on to a checking organisation. We believe that this meets the need to provide a non-digital alternative for individuals who cannot access the online service, while maintaining the safeguards, including those against fraud or inappropriate data sharing, in the system design.

Database error

We ask you to provide clarification on how many people were affected by the EUSS database error publicised in January 2023 and to provide us with your assessment of the consequences of this error for EU citizens in the UK.

The exercise on 18 January 2023 was not due to a database error. It related to individuals who received an EUSS refusal decision between 27 June 2021 and 19 April 2022. They were all sent an email or postal notification of their refusal decision at the time the decision was made, using the contact details they had supplied and which they are able to update when required. The information included on a Certificate of Application explains that it is only valid until a decision is made on the application. The EUSS refusal decision sets out the reasons for refusal of the

application and possible next steps for the individual, including the process for administrative review and appeal. We are confident these decisions were properly served to the individuals concerned.

The refusal decision was not, however, reflected in the applicant's digital status, which is used by some government departments in the context of decisions about access to benefits and services. This was not the result of error but reflected the need to ensure that, if the person then requested an administrative review of the decision, or appealed, they continued to have temporary protection of their rights, including access to benefits, where eligible. This ensured that we continued to meet our obligations under the WA and that nobody was wrongly refused access to benefits or services, as, prior to 19 April 2022, the digital status system did not have the capability to reflect that an administrative review or appeal was pending.

Systems were updated on 19 April 2022 so that refusal decisions made after that date were reflected in the applicant's digital status, once administrative review and appeal rights had been exhausted.

There were approximately 146,000 UKVI accounts in scope of the exercise. This figure does not necessarily equate to individuals and only a very small proportion of the cohort are expected to have wrongly claimed benefits or accessed public services during the relevant period.

The Independent Monitoring Authority released a statement on this issue on 22 May 2023:

[IMA statement on work to address concerns raised with EU Settlement Scheme - Independent Monitoring Authority \(ima-citizensrights.org.uk\)](https://www.ima-citizensrights.org.uk/ima-statement-on-work-to-address-concerns-raised-with-eu-settlement-scheme)

We are deeply concerned to hear that some people may need to make repayments for benefits or pay for healthcare services that they have received retrospectively as a result of this database error. We ask you to provide us with clarification on this matter, including whether any repayments of benefits or payments for healthcare services have been requested; will be requested; or will be waived. If so, we ask that you indicate the number of people facing this situation.

As above, this exercise was not due to a database error, and the individuals impacted had not sought to challenge the refusal decision which was served to them and therefore had no lawful basis of stay in the UK (unless they had obtained leave to remain through a subsequent application).

Under Universal Credit legislation all overpayments are recoverable. The Secretary of State for Work and Pensions has an obligation to protect public funds and to ensure that, wherever possible, an overpayment is recovered. DWP does not intend to recover overpayments for the other impacted benefit lines, which have a different legislative basis for overpayment recovery.

DWP has prioritised cases where there was a current claim to benefits and doubt over a claimant's current entitlement, following the update to the Home Office system. Of those identified, as of 15 June 2023, fewer than 350 claims have been closed as a result of the EUSS refusal decision and fewer than 50 claims remain suspended while further checks are carried out. Fewer than 160 of the claims closed relate to UC where overpayments are recoverable. These customers have received multiple communications from DWP, giving them the opportunity to provide evidence of entitlement before their payments ceased.

DWP has a well-established process for working with individuals to support them to manage repayments. DWP's priority is to negotiate affordable and sustainable repayment plans that do not cause undue financial hardship. DWP is committed to working with anyone who is struggling with their deductions, and any person who feels they cannot afford the proposed rate of deduction for an overpayment is encouraged to contact the DWP debt management team and agree a rate of repayment that is more affordable for them. There is no minimum amount that a customer has to pay.

Where relevant NHS-funded healthcare is concerned (which excludes accident and emergency treatment and GP appointments), those whose application to the EUSS has been refused and who are not in the UK lawfully are chargeable for any such healthcare received from the date their application was refused. Providers of relevant NHS-funded healthcare are required by law to make and recover charges where they apply.

DHSC is working with the NHS and the Home Office to identify and ascertain the number of people in this cohort who accessed relevant healthcare after their application was refused. However, where a person is destitute or genuinely without access to funds, a Trust can conclude that it is not cost effective to pursue payment at this time and write it off in their accounts. This does not mean that the debt is waived; it remains on record and can be recovered if the patient's ability to pay changes.

We are concerned to hear that there have been instances of holders of (pre)-settled status experiencing difficulties travelling between the EU and UK. We ask you to update us on what steps have been taken to prevent these issues from occurring; and what assistance and recourse you have provided to those individuals who, rightly or wrongly, have experienced difficulties entering the UK caused by having a "flag on their passports". We also urge you to ensure that guidance to border authorities is made as clear as possible.

The British public expect us to check that everyone entering the UK has the right to do so and all passengers may be asked questions to establish the basis on which they are seeking to enter the UK. Holders of pre-settled status may be stopped for examination in relation to immigration matters and customs checks. If an individual has had a previous refusal under the EUSS, they may be stopped to confirm that they do have valid status and the right to enter the UK. Additionally, if they use an

identity document which is not registered to their UKVI account, they may experience delays at the border whilst their status is established or confirmed. In late 2021, an email was sent to all EUSS status holders to remind them about key aspects of the scheme, including the importance of updating their UKVI account with their latest passport or (in the case of EU citizens) national identity card before travelling.

The EUSS application system does not currently link multiple applications from the same person. Therefore, where an individual has made multiple EUSS applications, a Border Force officer is shown all outcomes. This requires the officer to manually review the records displayed to accurately establish the person's status. This is a known issue and there is work in progress to deliver a comprehensive solution. I can assure you that there is already clear guidance for Border Force officers on this issue.

We ask you to provide us with your assessment of the possible implications of the proposed introduction of the Electronic Travel Authorisation (ETA) system for EU citizens travelling between the UK and the EU, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.

The UK's Electronic Travel Authorisation (ETA) scheme will apply to all passengers visiting the UK or transiting the UK who do not currently need a visa for short stays or do not have an immigration status prior to travelling, including EU citizens. However, those with an existing UK immigration status, such as pre-settled or settled status, will not be required to obtain an ETA.

The effective operation of our ETA scheme (and our wider universal 'permission to travel' requirement) will require carriers to check and confirm individuals' permission prior to travel which will ensure travel to the UK is not disrupted. Carriers will provide the Home Office with Advance Passenger Information and, in turn, receive confirmation from the Home Office that the individual has permission and may be carried to the UK or does not have permission and may not be carried; or that their permission needs to be checked by the carrier. Passengers with pre-settled or settled status will, like those with ETAs, be shown as having permission to travel to the UK.

UK citizens' rights in the EU

Residence schemes in EU Member States

We ask you to indicate what representations the Government has made to the Commission and counterparts in individual Member States where high refusal rates for applicants to constitutive systems for securing residence rights under the Withdrawal Agreement have been reported, including Sweden and Denmark.

We are in regular discussions with the Commission and Member States to raise and resolve issues that UK nationals encounter when exercising their rights under the Withdrawal Agreement.

We are aware of high refusal rates in some Member States, including where we had reason to believe that the Withdrawal Agreement may not have been correctly implemented. In the case of Denmark, we have made multiple representations to the Commission and worked closely with Danish counterparts to understand and resolve the issue. As a result of our representations, including by the Minister for Europe in the FCDO, Danish authorities have extended the deadline for UK nationals and their family members to apply for residence until 31 December 2023. We welcome this move by Denmark and will continue to engage with Denmark and the European Commission to ensure the rights of UK nationals are protected.

We have also made representations to the Commission and Swedish counterparts regarding the high rate of refusals.

In light of the UK High Court judgment regarding the expiry of pre-settled status, we ask you what assessment the Government has made of arrangements for UK citizens to upgrade to permanent residence in EU Member States where this is required, and what support is available to help UK citizens negotiate this process.

We have raised this issue on several occasions with the European Commission. At the last Specialised Committee, the Commission assured the Government that those UK nationals required to upgrade their status were only required to do so for administrative purposes and that the expiry of their temporary residence does not affect their right to permanent residence.

However, we remain concerned for UK nationals who may in reality not be able to access their rights if they are unable to provide evidence of their status, as demonstrated by a successful second application to the relevant residency scheme. We are looking to work collaboratively with the European Commission on this issue, to ensure we have a clear understanding of how our respective nationals access and demonstrate their permanent residency rights in practice. As part of this, we have made clear to the Commission and Member States that there is insufficient guidance and communication in many Member States to support family members seeking to join UK nationals.

We would also continue to encourage UK nationals in the EU who are eligible to apply for permanent residence to do so as soon as they become eligible.

Issues with securing appropriate documentation have also been reported by UK nationals in Portugal. Ms Golding characterised the application process there as “late and not-fit-for-purpose”, with problems relating to payment for residence documents and officials incorrectly issuing documents valid for five years instead of ten years. We urge you to raise systemic issues relating to the rights of UK citizens under the Withdrawal Agreement with the European Commission as they arise and ask you to provide us with an update on what recent discussions have taken place with the Commission on these matters,

including at the most recent meeting of the Specialised Committee on Citizens' Rights.

We take our role in raising all implementation issues with the Commission very seriously and take all opportunities available to hold our counterparts to account and to seek resolution. In the last three years we have raised issues at all 12 meetings of the Specialised Committee, including on family reunification processes, delays to UK nationals receiving residency documents and equal treatment accessing public services such as healthcare.

Where issues remain unresolved, we continue to press the Commission and Member States for updates and resolution. At the last Specialised Committee, amongst other concerns, we raised two critical systemic issues. These were the ability of UK nationals who do not apply for permanent residence to access their rights (as set out above) and the lack of available reasonable grounds guidance on late applications from UK nationals in constitutive Member States.

On this latter issue, we have been unable to identify any Member State which publishes detailed guidance on what constitutes reasonable grounds for making a late application, and nor has this information been shared with us privately. In contrast, in the UK detailed guidance on what constitutes reasonable grounds for making a late application has been published since April 2021. It is essential that UK nationals and their family members have information available to them on this issue. Lack of transparency in this area also makes it difficult for the UK to understand how Member States are approaching this issue, including to assess whether we have concerns, and whether those states are in breach of the WA. We will continue to press the EU on these issues and work with them at the Specialised Committee, in technical discussions and through interim exchanges. As your Committee will be aware, under the WA, the Commission is under an obligation to monitor the compliance of Member States with the WA. There is no direct equivalent of the Independent Monitoring Authority, and this role is undertaken by the Commission.

Travel

We urge you to work with the European Commission and the authorities in EU Member States to ensure that guidance to border authorities is made as clear as possible, and ask you provide an update on any recent discussions.

We are aware of the difficulties encountered by some UK nationals when returning to their Member State of residence. HMG, including through our network of Embassies and High Commissions across the EU, have lobbied Member State authorities across the EU to fulfil their obligation to update the relevant annexes of the Schengen Handbook – this should ensure that UK nationals can travel without hindrance and prove their residence status swiftly. Following our discussions with the Commission, guidance was issued last year to Member States which supported our position and stressed the need to maintain these annexes. We have also reminded Member State authorities to ensure border authorities are processing UK nationals correctly and exempting beneficiaries of the Withdrawal Agreement from

passport stamping. We continue to monitor the situation and raise any concerns with the Commission and relevant Member States.

We ask you to provide us with your assessment of the possible implications of the EU's proposed introduction of the Electronic Travel Information and Authorisation System (ETIAS) for UK citizens travelling between the EU and the UK, and to update us on what steps are being taken to ensure that this does not result in disruption to travel between the EU and the UK for this group.

We are working closely with the Commission to understand the impacts of the EU's Entry/Exit System (EES) and ETIAS including to minimise its impact on Withdrawal Agreement beneficiaries, having most recently raised this at the Specialised Committee on 25 May. The Commission has reassured us that UK nationals residing in a Member State will not be adversely impacted and will be able to travel as before. We will continue to engage while the system is introduced and will test whether clear information is provided by Member States to border guards regarding Withdrawal Agreement beneficiaries.

Support for UK citizens

We ask you to provide us with an update on the resources available to UK embassies in EU Member States to support UK citizens facing citizens' rights issues and for clarification on any changes to the funding allocated to support citizens' rights officers. We urge you to ensure that sufficient resources are in place to provide consular support to the substantial number of UK citizens that continue to face challenges associated with exercising their rights under the Withdrawal Agreement.

The funds the UK provided helped 516,000 individuals access the implementing partner's services and 23,977 UK nationals received individual support from a caseworker to help them secure their residency (in the context of an estimated one million UK nationals resident in the EU). The UK Nationals Support Fund closed at the end of 2021-22.

We ask you to explain the rationale for reducing substantially the Government funding available to support UK citizens resident in the EU on citizens' rights issues, including by closing the UK Nationals Support Fund, at a time when there has been a rise in the number of complex cases.

We ask you to provide us with an indication of what Government funding, if any, is currently available to non-governmental bodies that support UK nationals in EU Member States on citizens' rights issues, whether the Government considers this to be sufficient and whether there are any plans to offer any additional funding.

I will address the three questions above together. Citizens' rights continues to be a priority for the Government, and we are focused on ensuring we have the right

support to deliver for UK nationals around the EU as well as EU nationals in the UK. On the former there is a dedicated team in London who monitor implementation of the citizens' rights elements of the Withdrawal Agreement across the Member States, oversee engagement with those States and provide guidance where individual issues arise. They work closely with the bilateral desks and other relevant government departments (e.g., DWP) in London as well as with our Embassies and High Commissions across the EU. It is the case that, as planned, with residency deadlines having passed in all but one constitutive Member State (Denmark), some of the temporary provision set up to support registration processes has been downsized or come to the end of the programme (including for example the UK Nationals Support Fund the Committee mentions, which allocated up to £4 million in funding to organisations supporting UK nationals who needed additional assistance applying for residence). That does not mean, however, that the resources are not in place. A range of teams, including the Justice and Home Affairs Network of attaches, continue to address issues affecting UK nationals in Member States and, of course, UK nationals living in the EU have recourse to Consular services in the same way as other UK nationals and have access to support 24/7.

Thank you once again for taking the time to write to me, and I apologise for the delay and back-and-forth on this item of correspondence.

Yours Sincerely,



Rt Hon Suella Braverman KC MP
Home Secretary