



Rt Hon Yvette Cooper MP
Chair, Home Affairs Select Committee
House of Commons
London
SW1P 4DF

11 January 2021

Dear Committee Chair,

I write in response to your letter dated 16 December 2020 regarding the results of the Home Office's survey of local authorities in respect of applications to the EU Settlement Scheme (EUSS) for children in care and care leavers, and other issues.

Survey of EUSS applications for children in care and care leavers

Survey methodology

You asked about the methodology or process by which we identified 3,220 looked after children and care leavers in the UK as being eligible to apply to the EUSS.

This figure was produced as a result of the survey we carried out of local authorities (and, in Northern Ireland, Health and Social Care Trusts) to identify eligible children and care leavers as part of their internal review processes. We will arrange for the Clerk to the Committee to be provided with a copy of the letter sent to local authorities about the survey and of the survey sheet which local authorities were asked to complete.

To assist local authorities in identifying eligible cases, we produced a suite of materials about the EUSS, covering all aspects of the scheme, including the eligibility criteria. Local authorities raised no issues with us about this in completing the survey.

Survey results

You asked why the figure of 3,220 looked after children and care leavers identified by the survey is much lower than the Home Office's initial estimate of around 9,000.

In the absence of local authority data on the nationality of children coming into care, the Home Office made initial estimates based on the Office for National Statistics (ONS) estimates of EEA citizens as a proportion of the resident population, and on government data on volumes of children in care and care leavers in each local authority. The resulting figures – of around 5,000 children in care and 4,000 care leavers nationally – provided a reasonably generous basis for the new burdens assessment which was conducted. This assessment resulted in additional funding being issued to local authorities which have responsibilities for carrying out specific duties in relation to looked after children and care leavers to ensure they were adequately funded to do this work.

The ONS population estimates are not directly comparable to the numbers of looked after children and care leavers eligible to apply to the EUSS. The population estimates are not

able to provide reliable estimates for sub-groups, such as looked after children. In addition, the population estimates do not take account of people's migration intentions and will include people who have come to the UK for a range of purposes, including some who have no intention to settle in the UK. We therefore conducted the survey with the aim of obtaining a more accurate understanding of the number of looked after children and care leavers eligible for the EUSS.

The survey asked local authorities to provide assurance they had identified all relevant cases so far. The published summary of the survey results was based on a response rate which, as of 31 October 2020, was 94 per cent. The Home Office has since received some additional responses to the survey, increasing the response rate to 99 per cent, which is itself testament to the importance which local authorities have accorded to this work.

The survey will be repeated in early 2021 to review progress in identifying eligible looked after children and care leavers and helping them secure status under the EUSS, but we believe the survey now provides the best available estimate of the numbers.

Awareness of the EUSS and support for applications

Alongside our extensive public communications, stakeholder engagement and outreach work, the Home Office is providing significant support to local authorities and Health and Social Care Trusts, in light of their statutory responsibilities for this cohort, to ensure these children and young people, like other vulnerable groups, get UK immigration status under the EUSS, and the secure evidence of this status which the scheme provides. This includes:

- a toolkit¹ and guidance² for local authorities and Health and Social Care Trusts on their role in making or supporting applications to the EUSS in respect of eligible looked after children and care leavers.
- regular teleconferences specifically for local authority staff responsible for making applications to the EUSS, in order to support them and provide a direct point of contact for them within the Home Office.
- the support available from the Settlement Resolution Centre and the network of 72 organisations across the UK being grant-funded by the Home Office, with £17 million available over 2019-2021, to help vulnerable people to apply to the scheme. This network includes several organisations working to support vulnerable children and young people, including those in care and care leavers, to make their application to the EUSS.

The Home Office has recently held a series of workshops for local authorities, looking at specific barriers to making an application and how these can be overcome, as discussed further below. The workshops have proved very popular and been well attended, and this sort of engagement with and practical support for local authorities will continue.

Application processing times

The time taken to process applications to the EUSS by or on behalf of looked after children and by care leavers can vary. This is due in part to the varying complexity of the cases and to issues which may arise in getting cases concluded.

Such issues can often include needing to work with the local authority and others to obtain alternative information and evidence as to the child's identity and nationality where the

¹ <https://www.gov.uk/government/collections/eu-settlement-scheme-local-authorities-toolkit>

² <https://www.gov.uk/government/publications/eu-settlement-scheme-looked-after-children-and-care-leavers-guidance>

local authority has been unable to obtain a passport or national identity card for the child, including because the relevant national authority in the EU27 does not recognise the local authority has legal parental responsibility for the child and therefore a responsibility to obtain an identity document for them as a basis for an application to the EUSS and for other important purposes.

Parental refusal to co-operate with any aspect of the application process can also hinder our ability to verify the child's identity and nationality by other means, and we have encountered some administrative issues with some EU27 embassies affecting our ability to verify the child's identity and nationality where they do not hold a valid passport or national identity card and the local authority has not been able to obtain one for them from the embassy.

As discussed below, we are working closely with the EU27 embassies and high commissions in the UK to resolve such issues, and we work throughout with the local authority involved in such cases to ensure the right outcome is achieved for the child. However, this can lead to a longer processing time for such applications.

We should also bear in mind where children in the UK under the age of 18 are concerned, under section 55 of the Borders, Citizenship and Immigration Act 2009, the Home Office has a statutory duty to have regard to the need to safeguard and promote their welfare in carrying out immigration functions. Caseworkers must obviously ensure this duty of care is discharged and, particularly where a child is making an application to the EUSS on their own behalf, this can impact on the processing times for some applications.

You asked whether there are any regional variations in volumes of applications made and their outcomes. The Home Office plans to publish the survey results for each local authority area; we are currently looking at how best to do this and will, as you have requested, provide you with a copy when the data is published. It will provide a basis for such comparisons to be made and, working with the Department for Education, the Devolved Administrations and other partners, for us to focus the support we can offer local authorities for this work.

Barriers to making an application

The survey asked local authorities to indicate barriers to making an EUSS application for looked after children and care leavers.

The barrier most often referred to was the 'lack of sufficient identity documents' (recorded 73 times). This was followed by 'resistance or lack of co-operation by the applicant and/or their family members' (recorded 60 times), e.g. where a care leaver has refused to complete an application or where parents have refused to provide the relevant identity documents for looked after children. The third most referenced barrier was 'a delay in obtaining the relevant identity documents' (recorded 58 times).

We understand the difficulty there may be where a looked after child or care leaver does not have a valid identity document owing to the often complex nature of their lives and circumstances and they, or the local authority, may struggle to easily obtain the required document from the relevant embassy or high commission in the UK. We meet regularly with consular representatives of the EU27 to try to resolve such problems, though this is not an issue created by the EUSS: it is right local authorities should obtain the appropriate identity document for a looked after child, regardless of their nationality, and obtaining such identity documents is an established process for local authorities.

However, as the published Home Office guidance for the EUSS makes clear, applications can be made without the required identity document where the applicant is unable to obtain or produce one due to circumstances beyond their control or due to compelling compassionate or practical reasons. We are working with local authorities to ensure appropriate use is made of this discretion to enable a valid application to the EUSS to be made in these cases.

As I have already mentioned, the Home Office has recently held a series of workshops for local authorities, looking at specific barriers to making an application. We are determined to support local authorities through these challenges and ensure a way forward can be secured. In addition, and using the insight gathered from the survey, we have been making direct contact with local authorities whose survey returns indicate they could be an area requiring additional support. We have also planned a series of additional teleconferences for social workers to explore in more depth the issues raised and how they can be overcome, and to give them the opportunity to put questions to our caseworkers and policy experts.

Settled status for children in care and care leavers

We recognise the importance, now free movement has ended, of protecting the rights of children in care and care leavers through the EUSS, as we are seeking to do where all vulnerable groups are concerned. As I have described, the Home Office is providing extensive support to local authorities, in light of their statutory responsibilities for this cohort, to ensure these children and young people, like other vulnerable groups, get UK immigration status under the EUSS and the secure evidence of status which the scheme provides.

The requirement under the EUSS generally to have been continuously resident in the UK for five years before becoming eligible for settled status reflects the rights under the Free Movement Directive which are protected by the Citizens' Rights Agreements. We also work closely with local authorities to seek to ensure that, in line with the more generous domestic provision which the EUSS makes for this for all children under the age of 21, a looked after child or care leaver under that age is granted settled status under the EUSS where a parent has been granted this status (whether or not, where a looked after child is concerned, the parent has legal parental responsibility for them).

A person granted pre-settled status under the EUSS has the same rights and entitlements as a person who had yet to acquire a right of permanent residence here under EU free movement law. They can apply again for settled status as soon as they qualify for it. We will send a reminder to people to do so before their pre-settled status (five years' limited leave to enter or remain) expires, but we will take a pragmatic and flexible approach where they do not so and later apply for settled status.

First-year EU university students

You asked about the position of first-year EU students at British universities who, arising from the COVID-19 pandemic, have studied remotely from their home countries.

We have been clear since we left the EU that free movement would come to an end on 31 December 2020 and Parliament passed primary legislation to deliver this. In line with the Citizens' Rights Agreements, the end of the transition period on 31 December 2020 therefore remains the point by which all EU citizens needed to be continuously resident in the UK to be eligible in their own right for status under the EUSS. This includes students who had commenced their course at a British university online in Autumn 2020 from their home country due to COVID-19. It is worth noting travel was widely available across

Europe, including for leisure purposes, at various points during the first term of the academic year, even though the current situation is more restricted.

Those EU students who did not arrive in the UK by 31 December 2020, or were outside the UK and not continuously resident here at that date, and who are not eligible for the EUSS as a joining family member of an EU citizen continuously resident here then, will be required to apply to the student route under the new points-based immigration system to commence studying in the UK.

EU students who were studying in the UK and have returned home during the pandemic, and who are continuing with their course online in their home country, when they would otherwise be studying in the UK, will still be able to apply to the EUSS by the deadline of 30 June 2021. They can apply online from outside the UK, or on their return here, provided they are able to show they remain continuously resident in the UK. This means they must not have been absent from the UK for more than six months in any 12-month period, except for a single absence of no more than 12 months for an important reason, for example due to studying outside the UK because of COVID-19.

Published guidance for EUSS applicants on the impact of COVID-19 is available at:

<https://www.gov.uk/guidance/coronavirus-covid-19-eu-settlement-scheme-guidance-for-applicants>

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Foster', with a large flourish at the end.

Kevin Foster MP
Minister for Future Borders and Immigration



10 July 2020

Action Required

Dear Director of Children's Services,

EU Settlement Scheme – applications for looked after children and care leavers.

Business data capture request – deadline for return is 31 August 2020.

We wrote to you last Summer to identify progress being made in making and supporting applications to the EU Settlement Scheme (EUSS) in relation to looked after children and care leavers.

The EUSS has been fully open since 30 March 2019. With the deadline for making applications to the scheme set at 30 June 2021, we would appreciate your assistance in checking progress in ensuring looked after children and care leavers are having applications made to it on their behalf.

In order to assess the progress your local authority is making on this work, there is a business data collection sheet attached, which local authorities are asked to complete and return to feedback-supportmodel@homeoffice.gov.uk by 31 August 2020.

It is essential your local authority provides a return, even if the return is a nil response. There have been concerns raised by some organisations involved in supporting vulnerable children that applications to the EUSS for looked after children are not being made. It is important we obtain assurance this vital work is being carried out and local authorities are seeking to secure the best possible outcome for their eligible looked after children.

A nil response will need to be accompanied by an explanation as to why no relevant looked after children or care leavers have been identified or why no applications to the EUSS have yet been made.

Please ensure returns are accurate and reliable as this information will be used to assess the effectiveness of the scheme in reaching these vulnerable groups, and inform our next steps on outreach and communications.

The Minister for Future Borders and Immigration, Kevin Foster MP, and the Minister for Children and Families, Vicky Ford MP, wrote jointly on 6 May to lead council members to highlight the importance of this work and to ensure all necessary steps are being taken to obtain status under the EUSS for eligible looked after children. This letter also advised lead members of this data collection exercise.

We also want to reassure you your local authority is not working alone. There is a range of support available which can be accessed at any time. It is therefore important your staff are made aware of these support services. These are detailed in the bespoke

guidance pack published online at: <https://www.gov.uk/government/publications/eu-settlement-scheme-looked-after-children-and-care-leavers-guidance>.

Additionally, there is a network of 57 organisations across the country, funded by the Home Office to provide specialist support and immigration advice to vulnerable citizens applying to the EUSS. This includes several organisations supporting children. Local authorities can reach out to those organisations if they require support, especially on any complex cases. A list of these organisations can be found at:

<https://www.gov.uk/government/publications/eu-settlement-scheme-community-support-for-vulnerable-citizens/list-of-organisations>.

I look forward to receiving your data return, and please do not hesitate to contact the team directly should you wish to discuss this further or would like any help with completing the data return. The contact for this is feedback-supportmodel@homeoffice.gov.uk.

Regards

Julian Mahony

Vulnerability Programme Director

England Local Authority Cohort Template - EEA looked after children and non-EEA children related to EEA nationals

| | |
|--|--|
| LA: | |
| Lead contact name: | |
| Lead contact telephone number: | |
| Email address: | |
| Have you carried out the review process to identify eligible EUSS children? | |
| If yes, <u>please complete the table below</u>. If no, please explain why? | |

Please include nil returns

| | Total number of children identified eligible to apply for EUSS | Number that have been granted settled status | Number that have been granted pre-settled status | Number of applications made that are still awaiting decision from Home Office | Number of children whose application is yet to be made | Barriers to making applications |
|---|--|--|--|---|--|---------------------------------|
| Looked after children (LAC) where the LA has parental responsibility (PR) for the child | | | | | | |
| Looked after children (LAC) where the LA does not have PR for the child | | | | | | |
| Care Leavers supported by local authority | | | | | | |
| Total | 0 | 0 | 0 | 0 | 0 | |