

The Earl of Clancarty
House of Lords
London
SW1A 0PW

16 April 2025

Dear Earl of Clancarty,

Citizens' rights and the EU Settlement Scheme

Further to our meeting on 27 November and my enclosed letter of 9 December, I am writing to provide you with an update on citizens' rights and the EU Settlement Scheme (EUSS) following your intervention in the debate on the UK Resettlement Scheme on 27 March (Column 1805).

'True' and 'extra' cohorts

Following our previous discussion on the 'true' and 'extra' cohorts of EUSS leave holders, I am pleased to inform you that we have introduced a clause in the Border Security, Asylum and Immigration Bill that will provide clarity as to the basis of their rights in the UK for all EU citizens and their family members with leave under the scheme.

Clause 42 in the most recent print of the Bill ([Border Security, Asylum and Immigration Bill](#)) will confirm in UK law that all EU citizens resident in the UK before the end of the post-EU exit transition period at 11pm on 31 December 2020, and their family members, who have pre-settled status (five years' limited leave to enter or remain) or settled status (indefinite leave to enter or remain) under the EUSS will be treated as a beneficiary of the Withdrawal Agreement for as long as they hold that leave.

Whilst the UK has sought to treat the 'true' and 'extra' cohorts the same as a matter of practice, some small differences in treatment have emerged as a result of developing caselaw. Clause 42 will mean that both cohorts are treated equally as a matter of UK law, irrespective of whether the EU citizen was residing in the UK in accordance with EU law at the end of the transition period (the 'true' cohort) or not (the 'extra' cohort).

I attach a more detailed description of the new clause at [Annex A](#) and, once the Bill enters the Lords, I would be happy to meet to discuss the new clause if that would be helpful.

EUSS automation

Following on from our implementation of the High Court judgment in December 2022 in judicial review proceedings brought by the Independent Monitoring Authority for the Citizens' Rights Agreements concerning the rights under the Withdrawal Agreement of

those EU citizens and their family members with pre-settled status under the EUSS, the Home Office has now introduced a process to convert eligible pre-settled status holders to settled status where possible without the need for them to make a further application to the EUSS. More information about these changes, which will further improve the customer service delivered under the scheme, is available here:

[Home Office implementation of the judgment in R \(Independent Monitoring Authority for the Citizens' Rights Agreements\) v Secretary of State for the Home Department \[2022\] - GOV.UK](#)

Grant funding

£32 million in grant funding (to 31 March 2025) has so far been provided to organisations across the UK to support vulnerable people in applying to the EUSS, whether for the first time or to switch from pre-settled to settled status. This funding has helped more than 550,000 vulnerable people apply to the EUSS. We have now made an additional £500k of grant funding available for 2025-26 and are working through the detail of that funding offer with our partners.

eVisas and Electronic Travel Authorisations (ETAs)

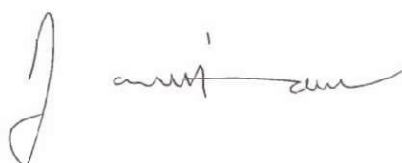
The transition to eVisas has been underway since the development of the EUSS in 2018, which, as you know, provides such digital evidence of a person's immigration status, with millions of people already receiving and using eVisas successfully. Monitoring of the system since the end of 2024 suggests that for most people the transition to eVisas has gone smoothly.

We are continuing to listen to the views and concerns of stakeholders and users of our system and we recognise that the transition to eVisas represents a significant change, with a small proportion of people reporting issues with them. We want to ensure that we continue to have effective measures in place to ensure that no one is disadvantaged by the eVisa transition. We are therefore extending until 1 June 2025 the provision for carriers to accept a biometric residence permit or EUSS biometric residence card that expired on or after 31 December 2024 for use for travel to the UK.

The UK has introduced ETAs to enhance our ability to screen travellers upstream and improve the customer experience. ETAs were extended to eligible European nationals on 5 March 2025 and are now a requirement for them. All visitors to the UK who do not need a visa for short stays and who do not already have a UK immigration status now need an ETA to travel the UK. The ETA scheme does not apply to those with existing permission to enter and stay in the UK, including those with pre-settled or settled status under the EUSS.

A copy of this letter will be placed in the House of Lords Library.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'J. Hanson', written in a cursive style.

Rt Hon Lord Hanson of Flint

Annex A

Provision to treat all EU citizens and their family members with EU Settlement Scheme (EUSS) status as if they are Withdrawal Agreement beneficiaries

1. What are we doing?

The Government has introduced a new provision (at clause 42) in the Border Security, Asylum and Immigration Bill that will confirm in UK law that all EU citizens resident in the UK before the end of the post-EU exit transition period at 11pm on 31 December 2020, and their family members, who have pre-settled status (five years' limited leave to enter or remain) or settled status (indefinite leave to enter or remain) under the EU Settlement Scheme (EUSS) will be treated as a beneficiary of the Withdrawal Agreement (WA) for as long as they hold EUSS status.

2. Why are we doing it?

To ensure that all EU citizens and their family members with status under the EUSS have the same rights here as a matter of UK law.

To be in scope of the WA, an EU citizen needed to be residing in the UK in accordance with EU law at the end of the transition period, e.g. as a worker or with an EU law right of permanent residence because they had worked in the UK for at least five years. However, to simplify its operation for applicants and to ensure that all EU citizens who had made the UK their home could remain here, the EUSS does not test this and only considers whether the EU citizen was continuously resident in the UK at the end of the transition period.

This means that two cohorts of EU citizens have EUSS status:

- Those who are in scope of the WA as they were for example economically active or self-sufficient here at the end of the transition period or previously had been for at least five years (the 'true cohort').
- Others granted EUSS status because they were continuously resident in the UK at the end of the transition period (the 'extra cohort').

It also means that, in granting EUSS status, we do not confirm which cohort the person is in, meaning that it is not clear to them whether the source of their rights in the UK is the WA (the 'true cohort') or domestic law (the 'extra cohort').

The UK has sought to treat the 'true' and 'extra' cohorts the same as a matter of practice. However, developments in caselaw since the end of the transition period mean that small differences in treatment between the two cohorts have emerged. For example, following a 2022 judicial review, the UK accepted that EU citizens in the 'true cohort' who are granted pre-settled status under the EUSS gain a right of permanent residence under the WA as soon as they meet the WA conditions for this (even if they have not yet obtained settled status under the EUSS). This does not apply to an EU citizen in the 'extra cohort' in the same circumstances.

3. How are we doing it?

The new provision confirms in UK law that the 'true' and 'extra' cohorts have equal rights in the UK. It does so by confirming in UK law that all EU citizens, and their family members, with status under the EUSS will be treated as being a beneficiary of the WA, meaning that

they benefit from the rights contained in Part 2, Titles I, II and IV of the Agreement and can rely directly on them, for as long as they hold EUSS status. This is irrespective of whether the EU citizen was residing in the UK in accordance with EU law at the end of the transition period.

It makes equivalent provision for other European Economic Area (EEA) and Swiss citizens resident in the UK at the end of the transition period, and their family members, who have EUSS status, in respect of the rights contained in the Separation Agreement with the other EEA states (Iceland, Liechtenstein and Norway) and the Swiss Citizens' Rights Agreement.

In practice, this means for example that an EU citizen resident in the UK before the end of the transition period, and their family members, with EUSS status will be treated as being in scope of the WA despite the fact that a significant gap in the EU citizen's employment in the UK before the end of the transition period means that technically they fell outside it. They will now be able to rely on the WA as the source of their rights in the UK.

The new clause does not cover those with EUSS status who derived their EU law right to reside in the UK from the judgment of the Court of Justice of the European Union in *Chen* (primary carer of a self-sufficient EU citizen child) or *Ibrahim & Teixeira* (primary carer of a child in education whose EU citizen parent used to work here but has left UK). This is because those cases are in the 'true cohort' and therefore already have directly effective rights under the WA. The EUSS defines them according to the definitions in EU law, so there is no 'extra cohort' where those cases are concerned and no need for the clause to cover them.

It also does not include those with EUSS status who derived their EU law right to reside in the UK from their family relationship to a British citizen rather than an EU citizen. For example, so-called 'Surinder Singh family members' of a British citizen who returned to the UK after exercising their free movement rights in the EU and 'Zambrano primary carers'; they were given access to the EUSS purely as a matter of domestic policy.

The new clause does not widen the scope of the EUSS, change the EUSS application process or make it easier to obtain settlement in the UK. It confirms in UK law the approach which the UK has taken as a matter of policy since the end of the transition period.

4. Key statistics

To 31 December 2024, the EUSS has provided 5.7 million EU, other EEA and Swiss citizens, and their family members of any non-UK nationality, with the immigration status they need to continue living and working in the UK following our departure from the European Union. Around 4.1 million have settled status and 1.7 million pre-settled status (who will be eligible for settled status once they have accrued five years' continuous residence in the UK).