



HOUSE OF LORDS

European Affairs Committee

---

1st Report of Session 2021–22

# Citizens' Rights

---

Ordered to be printed 13 July 2021 and published 23 July 2021

---

Published by the Authority of the House of Lords

### *The European Affairs Committee*

The European Affairs Committee was appointed to consider matters relating to the United Kingdom's relationship with the European Union and the European Economic Area, including the implementation and governance structures of any agreements between the United Kingdom and the European Union; to consider European Union documents deposited in the House by a minister; and to support the House as appropriate in interparliamentary cooperation with the European Parliament and the Member States of the European Union.

### *Membership*

The Members of the European Affairs Select Committee are:

<a href="#"><u>Baroness Couttie</u></a>	<a href="#"><u>Earl of Kinnoull</u></a> (Chair)	<a href="#"><u>Lord Purvis of Tweed</u></a>
<a href="#"><u>Lord Faulkner of Worcester</u></a>	<a href="#"><u>Baroness Jolly</u></a>	<a href="#"><u>Viscount Trenchard</u></a>
<a href="#"><u>Lord Foulkes of Cumnock</u></a>	<a href="#"><u>Lord Lamont of Lerwick</u></a>	<a href="#"><u>Lord Tugendhat</u></a>
<a href="#"><u>Lord Hannay of Chiswick</u></a>	<a href="#"><u>Lord Liddle</u></a>	<a href="#"><u>Lord Wood of Anfield</u></a>
<a href="#"><u>Lord Jay of Ewelme</u></a>		

### *Further information*

Publications, press notices, details of membership, forthcoming meeting and other information is available at: <https://committees.parliament.uk/committee/516/european-affairs-committee>

General information about the House of Lords and its Committees are available at: <http://www.parliament.uk/business/lords/>

### *Committee Staff*

The current staff of the Committee are Simon Pook (Clerk), Dominic Walsh (Policy Analyst), Tim Mitchell (European Legal Adviser) and Samuel Lomas (Committee Operations Officer).

### *Contact Details*

All correspondence should be addressed the European Affairs Committee, Committee Office, House of Lords, London, SW1A 0PW. Telephone 020 7219 6083. Email [hleuroaffairs@parliament.uk](mailto:hleuroaffairs@parliament.uk)

### *Twitter*

You can follow the Committee on Twitter: [@LordsEuCom](https://twitter.com/LordsEuCom)

## CONTENTS

---

	<i>Page</i>
<b>Summary</b>	<b>3</b>
<b>Chapter 1: Introduction</b>	<b>5</b>
Overview	5
This inquiry	6
<b>Chapter 2: The Withdrawal Agreement and citizens' rights</b>	<b>7</b>
Overview	7
Residence status under the Agreement	8
Constitutive systems	9
Declaratory systems	9
Mobility	10
Professional qualifications	10
Oversight of citizens' rights under the Agreement	11
Independent Monitoring Authority	11
European Commission	12
Withdrawal Agreement Joint Committee	13
The Specialised Committee on Citizens' Rights	14
Prior concerns about the implementation of citizens' rights	15
The effect of UK-EU relations on citizens' rights issues	15
<b>Chapter 3: EU citizens' rights in the UK</b>	<b>17</b>
Background: the EU Settlement Scheme	17
Figure 1: EUSS applications by outcome as of 30 June 2021	18
The overall implementation of the EUSS	18
Verification of rights under the Withdrawal Agreement	21
Naturalised British citizens, family reunion rights and the EUSS	23
Vulnerable EU citizens	23
Older adults and digital exclusion	25
The effect of the COVID-19 pandemic	25
Government support for vulnerable persons	26
The 30 June 2021 deadline	28
Application backlog	28
After the deadline: late applications	30
Issues with the Home Office guidance	31
The need for a 'safety net'	33
Proving status: the lack of a physical document	34
Pre-settled status	38
Switching from pre-settled status to settled status	38
Pre-settled status and welfare rights	41
<b>Chapter 4: UK citizens in the EU</b>	<b>42</b>
Calculating UK populations in EU Member States	43
Combining statuses with Withdrawal Agreement rights	44
Declaratory systems	45
Table 1: Applications from UK citizens for a new residence document in EU Member States operating declaratory systems	46

Constitutive systems	48
Table 2: Applications from UK citizens for a new residence status in EU Member States operating constitutive systems	48
Late applications	49
Biometric residence card	50
Communication issues in both constitutive and declaratory systems	52
Digital exclusion and vulnerable groups	54
Support for UK citizens	55
UK Nationals Support Fund	55
Non-government support	57
<b>Summary of conclusions and recommendations</b>	<b>59</b>
<b>Appendix 1: List of Members and declarations of interests</b>	<b>66</b>
<b>Appendix 2: List of witnesses</b>	<b>68</b>

Evidence is published online at <https://committees.parliament.uk/work/1246/citizens-rights> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

## SUMMARY

The Withdrawal Agreement between the UK and the European Union, signed by the Parties on 24 January 2020, set out the terms of the UK's withdrawal from the EU. Among its provisions are Articles on citizens' rights. In this report we consider the mechanisms by which the UK and EU Member States have given effect to those rights, with particular focus on the Home Office's EU Settlement Scheme, launched on 31 March 2019. The deadline for applications to the Settlement Scheme was 30 June 2021.

We welcome the Home Office's achievement in encouraging and processing over 5.4 million applications from eligible citizens for a new residence status in the UK, ahead of the 30 June deadline. This was accomplished in the face of considerable challenges, including the larger than expected size of the EU population living in the UK and the difficulties of delivering such a scheme in the midst of the COVID-19 pandemic. We further endorse the central principle of the Scheme that looks for reasons to grant new residence status for EU citizens, rather than reasons to refuse it.

At the same time, our report highlights that there are still issues to be resolved with both the EU Settlement Scheme (EUSS) and those systems operated by EU Member States. In respect of the EUSS, our concerns include the lack of a physical document as proof that an EU citizen has successfully accessed their rights under the Scheme. While there are certain advantages to the Scheme's digital-only system, the absence of a physical document creates the risk that many EU citizens, including the elderly and those who are digitally challenged, will struggle to prove their rights. We also have concerns over the two million EU citizens who have been granted pre-settled status under the Scheme. These individuals must successfully apply for settled status after five years if they are to remain in the UK, and may miss the opportunity to do so if they do not receive reminders from the Government to make those applications. With many individual deadlines rather than one deadline for millions, it may be difficult for the Government to replicate its initial success in this next phase of the Scheme.

We also call on the Government to clarify how they will deal with applications under the Scheme that were made after the 30 June 2021 deadline. The Government has said that it will take a "generous" approach "for the time being" but late applicants, who are at risk of losing their rights, need more certainty.

Across these and other issues, we found that EU citizens from vulnerable groups are particularly at risk—whether of missing the initial deadline, of struggling to prove their status once they have it, or of failing to switch from pre-settled status on time. The Government has taken steps to support vulnerable groups, but we recommend further action is needed. How the Government addresses these matters will be an indicator of the Scheme's overall success and a touchstone of the UK's new relationship with the EU.

In respect of the systems operating in EU Member States to allow UK citizens to access their rights, the picture is currently mixed. While the data shows that some EU countries are progressing well with their applications from UK citizens, there are clearly problems in others, including with communications to UK residents about how those systems work and problems with the rollout of biometric residence cards. We urge the Government to continue its positive engagement so far with both the EU institutions and bilaterally with Member States to ensure these issues are resolved.

As with EU citizens in the UK, some UK citizens in the EU are more at risk of losing their rights than others, particularly those in vulnerable groups such as the elderly and digitally challenged. We therefore call on the Government to seek to extend its support for vulnerable UK citizens via the UK Nationals Support Fund beyond the 12 EU Member States where it currently operates.

To date, the UK and the EU have demonstrated a positive approach to dealing with citizens' rights issues, which is welcome. As both sides begin a new relationship following the UK's departure from the EU, we urge them to continue this constructive approach to a subject that has a profound impact on the lives of so many individuals living in the UK and in the EU.

# Citizens' Rights

## CHAPTER 1: INTRODUCTION

---

### Overview

1. The Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the Withdrawal Agreement or the Agreement), setting out the terms of the UK's withdrawal from the EU, was signed by the Parties on 24 January 2020.<sup>1</sup> The UK Parliament had previously enacted the domestic legislation necessary to give effect to the Agreement by passing the European Union (Withdrawal Agreement) Act 2020 on 23 January 2020. The Agreement was then ratified on 30 January 2020 and came into force on 31 January, the day the UK left the European Union.
2. The Agreement contains a range of provisions concerning the post-Brexit UK-EU relationship, including Articles on citizens' rights in Part Two.<sup>2</sup> Those citizens covered by the Agreement, and their family members, are granted residency rights and the right to work. The Agreement also grants them rights in areas such as social security and healthcare. The UK and the 27 EU Member States may decide whether they require EU/UK citizens to apply for their new residency status (known as a 'constitutive' system), or simply register (known as a 'declaratory' system).
3. The Withdrawal Agreement included provision for a transition period, whereby free movement of people would continue from 1 February to 31 December 2020.<sup>3</sup> From the end of that period, the free movement of people between the UK and EU Member States ceased. UK citizens living in the EU also lost their right to move freely from their host state to another EU Member State (onward free movement rights).<sup>4</sup>
4. The UK also signed an EEA/EFTA Separation Agreement with Iceland, Norway and Liechtenstein, and a separate Citizens' Rights Agreement with Switzerland, protecting the rights of citizens of these countries living in the UK and of UK citizens living in these countries.<sup>5</sup> These provisions broadly mirror the provisions agreed in the Withdrawal Agreement.<sup>6</sup>

---

1 Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (19 October 2019): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/840655/Agreement\\_on\\_the\\_withdrawal\\_of\\_the\\_United\\_Kingdom\\_of\\_Great\\_Britain\\_and\\_Northern\\_Ireland\\_from\\_the\\_European\\_Union\\_and\\_the\\_European\\_Atomic\\_Energy\\_Community.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840655/Agreement_on_the_withdrawal_of_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_from_the_European_Union_and_the_European_Atomic_Energy_Community.pdf) [accessed 14 July 2021]

2 *Ibid.*, Articles 9–39

3 *Ibid.*, Article 126. All EU law applied to the UK, including the principles governing the free movement of persons, until the transition period expired on 31 December 2020.

4 The Citizens' Rights provisions contained in the Withdrawal Agreement are founded upon the principles set out in EU Directive 2004/58 dealing with the rights of EU citizens and their family members to move and reside freely within the Member States. The Withdrawal Agreement does not cover the right to move itself but does address the right to reside, to work, and access to social security rights.

5 Department for Exiting the European Union, *EEA EFTA Agreement and Explainer* (20 December 2018): <https://www.gov.uk/government/publications/eea-efta-separation-agreement-and-explainer> [accessed 14 July 2021]

6 This report sometimes makes reference to EEA nationals, where they are living in the UK, as they are covered by the UK's EU Settlement Scheme.

5. The Trade and Cooperation Agreement (TCA), signed between the UK and the EU on 24 December 2020, reaffirms the parties' obligations under the Withdrawal Agreement. The TCA also includes provisions with a potential impact on UK and EU citizens, such as on recognition of professional qualifications, business mobility, social security co-ordination and visa-free travel.<sup>7</sup> It does not, though, contain comprehensive arrangements to facilitate UK-EU movement of people in the future.

### **This inquiry**

6. This report is based on an inquiry undertaken by the European Affairs Committee, whose Members are listed in Appendix 1, between May 2021 to June 2021.
7. The Committee's inquiry involved two oral evidence sessions with experts and campaign groups on 25 May 2021; an oral evidence session with the relevant Home Office and Foreign, Commonwealth and Development Office on 22 June 2021; and 12 written evidence submissions. We are grateful to all our witnesses, who are listed in Appendix 2.
8. In accordance with the Committee's function to scrutinise Government policy, the inquiry focused on the implementation of the UK's EU Settlement Scheme, including the effect of its deadline on applicants, particularly vulnerable persons. The inquiry also took evidence on the issues faced by UK citizens under both declaratory and constitutive systems operated by EU Member States.
9. The report is divided into three main chapters, firstly setting out the citizens' rights provisions of the Withdrawal Agreement and then analysing the systems the UK and EU Member States have put in place to meet their obligations under those provisions.

---

<sup>7</sup> Some professional qualifications for EU citizens in the UK (and UK citizens in the EU) are covered in the *Withdrawal Agreement*, Article 27.

## CHAPTER 2: THE WITHDRAWAL AGREEMENT AND CITIZENS' RIGHTS

---

### Overview

10. The Citizens' Rights provisions are set out in Part Two (Articles 9–39) of the Withdrawal Agreement. Their key points are as follows:
- The continuation of free movement rights<sup>8</sup> for UK and EU citizens until the end of the transition period on 31 December 2020, extending residency rights for the duration of this period and enabling EU and UK citizens to move between the UK and EU Member States.
  - Following the end of the transition period, a minimum six month 'grace period' during which UK and EU citizens living in countries operating a constitutive system, retain their residency rights and can apply for a new residence status in their host country (Article 18).
  - The right of EU and UK citizens who have exercised those free movement rights, and their family members, to acquire 'permanent residence' status, after accumulating five years' continuous lawful residence, in accordance with EU law, before or after the end of the transition period (Article 15).
  - The right to acquire permanent residence, for those who have not resided in their host state for five years by 31 December 2020, once they meet the requirements (Article 16).
  - Discretion for the UK and EU Member States as to whether they require EU/UK citizens to *apply* for their new residency status (known as a 'constitutive' system), or simply *register* (known as a 'declaratory' system).
  - The ending of onward free movement rights for UK citizens living in the EU with effect from 31 December 2020. In other words, a UK citizen lawfully resident in one EU Member State, even if he or she has been granted permanent residence in that Member State, is not entitled under the Withdrawal Agreement subsequently to move to another EU Member State.
  - The co-ordination of social security provision for those individuals covered by the Agreement, extending beyond the end of the transition period, to ensure that they "are not disadvantaged in their access to pensions, benefits and other forms of social security, including healthcare cover". (Articles 30–36).
  - The establishment of a dispute settlement mechanism (Article 158), allowing a UK court or tribunal to refer a case concerning Part Two to the Court of Justice of the EU (CJEU) for a period of eight years after the end of the transition period.

---

8 The full panoply of EU free movement rights are explained elsewhere but are summarised in Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC ([OJ L 229/35](#), 29 June 2004)

- The requirement for the UK to establish an independent monitoring body (Article 159), to conduct inquiries on alleged breaches of Part Two by the UK administrative authorities. The body is also empowered to receive complaints from EU27 citizens and their families and to bring legal action on their behalf. The European Commission will have a reciprocal function in the EU27 Member States.
11. In its report, *Brexit: the revised Withdrawal Agreement and Political Declaration*, published on 9 January 2020, the House of Lords European Union Committee concluded: “The agreement on citizens’ rights is fairly comprehensive and will allow individuals and families to continue with their lives and careers with a minimum of disruption. We therefore broadly welcome the citizens’ rights provisions.”<sup>9</sup> At the same time, the Committee acknowledged:

“One of the Government’s primary aims in negotiating Brexit has been a desire to end free movement of people. A necessary consequence has been that the citizens’ rights guaranteed under the Withdrawal Agreement fall short in some respects of those enjoyed during the UK’s EU membership. Most notably, for UK citizens in the EU, onward free movement rights are not guaranteed.”<sup>10</sup>

### Residence status under the Agreement

12. The Agreement provides that all UK citizens lawfully residing in a Member State at the end of the transition period (31 December 2020) will be able to stay in that host state, as will all EU citizens lawfully residing in the UK. Certain family members resident at that same time in a host state are also covered by the rights set out in the Agreement.
13. The conditions for lawful residence in the Withdrawal Agreement mirror those set out in current EU law on free movement.<sup>11</sup> Generally, individuals meet these conditions if they are in one of the following categories by the end of the transition period:<sup>12</sup>
- are workers or self-employed;
  - are not workers or self-employed, but have sufficient resources and comprehensive sickness insurance, for example a retired person or a student;
  - are close family members of another person who meets these conditions; or
  - have already acquired the right of permanent residence.

---

9 European Union Committee, *Brexit: the revised Withdrawal Agreement and Political Declaration* (1st Report, Session 2019–21 HL Paper 4), para 81

10 *Ibid.*, para 80

11 Free Movement Directive 2004/38/EC (OJ L 229/35, 29 April 2004). Article 6 and 7 of the Directive confer a right of residence for up to five years for those who work or have sufficient financial resources and sickness insurance. Articles 16, 17 and 18 of the Directive confer a right of permanent residence on those who have resided legally for five years.

12 UK citizens who had been living in a Member State continuously and lawfully for five years at the end of the transition period had the right to reside permanently in that Member State. Equally, EU citizens who had been living in the UK continuously and lawfully for five years at the end of the transition period had the right to reside permanently in the UK. Those who had not resided continuously and lawfully for five years in their host state by the end of the transition period will also be able to stay until they have reached the five-year threshold, at which point they will qualify for the right to reside permanently.

14. The Withdrawal Agreement's provisions on citizens' rights allow the UK and Member States to choose whether or not to require EU citizens, UK citizens and their family members to apply for a new residence status, under two different systems:
- a declaratory residence system, where residence status is given directly to those in scope of the Withdrawal Agreement by operation of the law and is not dependent upon completing administrative procedures. Those eligible for status have the right to receive a residence document confirming this and there may be an obligation under national law to register for a residence document, which evidences the status; or
  - a constitutive system, where those in scope of the Withdrawal Agreement only gain a residence status if they submit an application for a new residence status and the application is granted by the host state. Individuals who fail to apply by the deadline for applications will lose the protections afforded by the Withdrawal Agreement to their residence rights.

### Constitutive systems

15. Thirteen EU countries opted to operate constitutive systems, setting deadlines by which UK citizens must apply in order to retain their rights. Four of these countries chose the deadline of 30 June: France, Latvia, Malta and Luxembourg. The others chose deadlines in September or December 2021.<sup>13</sup>
16. Article 18(1) of the Withdrawal Agreement sets out the criteria for the issuance of residence documents under a constitutive system. Article 18(1)(e) states: "The host State shall ensure that any administrative procedures for applications are smooth, transparent and simple, and that any unnecessary administrative burdens are avoided."
17. The deadline for applications under a constitutive system cannot be earlier than six months after the end of transition, in other words 30 June 2021.
18. The UK Government's EU Settlement Scheme (EUSS) is also a constitutive system, implementing the UK's obligations to EU citizens under the Agreement, as well as those covered by the EEA/EFTA Separation Agreement and the Swiss Citizens' Rights Agreement (collectively referred to as the Citizens' Rights Agreements). Citizens wishing to access their Agreement rights had to apply by 30 June 2021. The EUSS grants eligible applicants from the EU, the EEA countries and Switzerland an immigration status ('settled status') allowing them to remain in the UK following the end of the transition period.

### Declaratory systems

19. Fourteen EU Member States have adopted a 'declaratory' system, under which a UK citizen living in the EU attains new residence status automatically, providing the conditions of the Agreement are fulfilled. UK citizens may register for a residence card as proof of that status.
20. States with larger resident populations of UK citizens (including Spain, Germany and Italy) have generally opted for the less onerous, declaratory

---

<sup>13</sup> The Netherlands had also opted for a 30 June 2021 deadline, but on 31 May extended this deadline to 30 September 2021.

system, although there are notable exceptions to this rule, such as France and the Netherlands. The Foreign, Commonwealth and Development Office (FCDO) estimates that Member States with a declaratory system account for around 68% of UK citizens in the EU, whereas those with a constitutive system account for around 32%.<sup>14</sup>

### Mobility

21. A notable absence from the Agreement, which has been repeatedly highlighted by campaigners, is the lack of 'onward free movement' rights for UK citizens. Rather than having the right to live and work throughout the EU, previously enjoyed under the right to free movement when the UK was a Member State, UK citizens after the transition period only retain these rights with respect to the Member State in which they already lived or worked.
22. The Trade and Cooperation Agreement (TCA) contains business mobility provisions, covering short-term business visitors; business visitors for establishment purposes; intra-corporate transferees; contractual service suppliers; and independent professionals.<sup>15</sup> For example, short-term business visitors may enter for a total of 90 days in any 180-day period. The mobility provisions, as with the other services provisions of the TCA, are subject to national reservations (meaning that certain liberalisations do not apply in specific sectors or specific Member States).
23. The EU Services Sub-Committee's report *Beyond Brexit: trade in services*, published on 25 March 2021, concluded that: "The TCA's business mobility provisions represent a major change in the UK-EU trading relationship for services ... The impact of these provisions has been delayed by the COVID-19 travel restrictions but will be felt once international business travel resumes."<sup>16</sup>
24. **It remains a matter of regret to us that the Parties did not address the onward free movement rights of British citizens in the Withdrawal Agreement or the TCA. In our view, this issue is best addressed via international cooperation. Looking to the future therefore, we call on the Government to raise the issue with the EU through the institutional arrangements introduced by the Withdrawal Agreement or the TCA, as appropriate.**

### Professional qualifications

25. The Withdrawal Agreement provides for some recognition of professional qualifications for EU citizens in the UK and UK citizens in the EU (Article 27). However, in the case of the latter, this recognition only applies in the state where the UK citizen lives or works, rather than on an EU-wide basis. This means, for example, that a UK citizen living and working in

---

14 Letter from Wendy Morton MP, Minister for the European Neighbourhood and the Americas, to Hilary Benn MP, Chair of the Future Relationship with the EU Committee, 21 July 2020: <https://committees.parliament.uk/writtenevidence/9311/default/> [accessed 14 July 2021]

15 Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one Part, and the United Kingdom of Great Britain and Northern Ireland, of the other Part, Article 158 (24 December 2020): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/948119/EU-UK\\_Trade\\_and\\_Cooperation\\_Agreement\\_24.12.2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948119/EU-UK_Trade_and_Cooperation_Agreement_24.12.2020.pdf) [accessed 14 July 2021]

16 European Union Committee, *Beyond Brexit: trade in services* (23rd Report, Session 2019–21, HL Paper 248), para 111

Germany will have their qualifications recognised there but would not have those same qualifications recognised in France.

26. There are additional provisions for UK-EU recognition of professional qualifications in the TCA, but these are limited. By default, qualifications are not recognised; instead, the TCA includes a framework allowing regulators and professional bodies to negotiate recommendations for Mutual Recognition Agreements (MRAs) on a profession-by-profession basis, which must then be submitted to the Partnership Council for approval.<sup>17</sup>
27. The EU Services Sub-Committee concluded that this framework “replicates the CETA [EU-Canada] model, where not a single mutual recognition agreement has been reached in over three years since its entry into force. The likely timelines for achieving recognition on a profession-by-profession basis are thus unclear.”<sup>18</sup>
28. **The Government should support UK regulators and professional bodies in utilising the machinery of the TCA to negotiate and conclude agreements on the mutual recognition of professional qualifications as soon as possible. We would welcome an update on the Government’s priorities in this respect in their response to this report.**

### Oversight of citizens’ rights under the Agreement

#### *Independent Monitoring Authority*

29. In accordance with Article 159 of the Withdrawal Agreement, the UK has established the Independent Monitoring Authority (IMA), to protect the rights of EU and EEA/EFTA citizens in the UK and Gibraltar.<sup>19</sup> Beginning its work on 1 January 2021, the IMA monitors the domestic implementation and application of Part Two of the Withdrawal Agreement. It receives complaints and conducts inquiries concerning alleged breaches of the Withdrawal Agreement by UK or Gibraltar public authorities. It also has the power to bring legal action in the UK or Gibraltar, with a view to seeking an adequate remedy if it deems that Part Two of the Withdrawal Agreement is not being implemented or applied correctly. The House of Lords Constitution Committee previously described the IMA as “a new body with a complex mandate and structure which merits further careful scrutiny”.<sup>20</sup>
30. The IMA’s powers to conduct inquiries are set out in paragraph 2 of Schedule 2 of the EU (Withdrawal Agreement) Act 2020.<sup>21</sup> In their submission to us, the IMA described the purpose of such an inquiry as threefold: to “establish whether the United Kingdom has failed to comply with the Citizens Rights Agreements”, to “establish whether a relevant public authority has acted or is proposing to act in a way that prevents a person exercising a relevant

---

17 The Partnership Council has several governing tasks within the TCA and supplementing agreements between the UK and the EU. It comprises representatives of the EU and of the UK, and is co-chaired by a member of the European Commission and a ministerial-level representative of the UK government.

18 European Union Committee, *Beyond Brexit: trade in services* (23rd Report, Session 2019–21, HL Paper 248), para 111 and European Union Committee, *Beyond Brexit: trade in services* (23rd Report, Session 2019–21, HL paper 248), para 135

19 Independent Monitoring Authority, ‘Welcome to the Independent Monitoring Authority for the Citizens’ Rights Agreements’: <https://ima-citizensrights.org.uk/> [accessed 14 July 2021]

20 Constitution Committee, *European Union (Withdrawal Agreement) Bill: interim report* (2nd Report, Session 2019–21, HL Paper 21), Chapter 3

21 [European Union \(Withdrawal Agreement\) Act 2020](#)

right”, and to “identify any recommendations for relevant public authorities appropriate to promote the adequate and effective implementation of the Citizens’ Rights Agreements.”<sup>22</sup>

31. The IMA may conduct an inquiry following a request from a Secretary of State, a Devolved Administration or the Gibraltar Government; as a result of a complaint or a series of complaints; or on their own initiative. However, unless requested, they will not launch an inquiry unless they have reasonable grounds to believe that a failure to comply with the Citizens’ Rights Agreements has occurred, or that a public authority is preventing a qualifying person from exercising a relevant right.<sup>23</sup>
32. At the time of writing, the IMA has not launched any full inquiries or brought forward any cases against the Government. The IMA told us that “pre-inquiry investigations are proceeding in regard to eight issues”. These investigations “could include conducting an inquiry to identify whether any breaches of the obligations under the Citizens’ Rights Agreements have or are occurring”, but at the time of submission the IMA stressed that they “would not wish to pre-judge the outcome of that investigative work”.<sup>24</sup>
33. Our witnesses were broadly positive about the IMA’s work to date. The comments of Kate Smart, CEO of Settled, a charity which supports EU citizens to apply to the EUSS, were typical: “It is early days for the IMA, but, from what we see, it is making every effort to come across as accessible and transparent, and wanting to be an effective service. It is getting off to a good start.”<sup>25</sup>
34. One potential area of improvement for the IMA is its profile among EU citizens. Kate Smart said that the body was “not necessarily well known among Europeans”, and that people would probably seek recourse from “an advice agency or a voluntary sector agency” in the first instance.<sup>26</sup> The IMA itself acknowledged in its submission that “as a new body we face a significant challenge to make stakeholders aware of our existence and role”.<sup>27</sup>
35. **The Independent Monitoring Authority, as required by the Withdrawal Agreement, plays an important role in monitoring the operation of the UK’s EU Settlement Scheme and the protection of EU citizens’ rights. It is therefore essential that it makes a strong and concerted effort to make those citizens aware of its existence and its role to support them to exercise their rights under the Scheme.**

### *European Commission*

36. In the EU, the European Commission performs the equivalent role of monitoring compliance in Member States. It receives complaints about alleged compliance breaches via its assistance service. Following the transition period, both the Independent Monitoring Authority and the European Commission will produce an annual report on measures taken to implement or comply with Part Two of the Withdrawal Agreement, including

---

22 Written evidence from the IMA (CIT0006)

23 *Ibid.*

24 *Ibid.*

25 Q 6, see also Fiona Costello’s reply to the same question.

26 Q 6

27 Written evidence from the IMA (CIT0006)

the number and nature of complaints received by these authorities from EU citizens in the UK and UK citizens in the EU respectively.

37. Jane Golding, co-Chair of British in Europe, the largest coalition group of British citizens living and working in Europe, told us about her organisation's positive experience of engagement with the Commission: "In our engagement ... which is very regular, we feed in particularly systemic issues that we see, and it certainly takes them up. We know that it discusses them with Member States and we certainly see the results of that."<sup>28</sup>
38. **The European Commission, as required by the Withdrawal Agreement, plays an important role in monitoring the implementation of the citizens' rights provisions in EU Member States and in protecting UK citizens' rights. We note that groups representing UK citizens report positive engagement with the Commission and we hope this will continue.**

*Withdrawal Agreement Joint Committee*

39. The Withdrawal Agreement Joint Committee, established under Article 164 of the Agreement, oversees UK and EU implementation, application and interpretation of the Agreement as a whole. The Joint Committee's remit also includes resolving any issues that may arise during the Agreement's implementation.<sup>29</sup> It must meet at least once annually and held its first meeting on 30 March 2020. It published its first annual report on 23 June 2021.<sup>30</sup>
40. The Joint Committee is co-chaired by the UK and the EU. At the time of writing, the UK co-chair was the Minister of State at the Cabinet Office, Lord Frost, and the EU co-chair was the European Commission Vice-President, Maroš Šefčovič. The Committee supervises the work of six Specialised Committees, including one on Citizens' Rights, and takes decisions on their recommendations.
41. In its report on the revised Withdrawal Agreement and the Political Declaration, the EU Select Committee noted:

"The Joint Committee will ... be critical in ensuring the smooth working of the Withdrawal Agreement. It will be a uniquely powerful and influential body. Decisions adopted by the Joint Committee will be binding on the EU and the UK and will have the same legal effect as the Withdrawal Agreement."<sup>31</sup>

At same time, it voiced concern that the extent of the Joint Committee's "widely drawn power is uncertain", noting that "its relevant rules suggest that meetings will be confidential, decisions might not be published, and

---

28 [Q 11](#)

29 Cabinet Office, 'Withdrawal Agreement Joint Committee Factsheet' (30 March 2020): <https://www.gov.uk/government/publications/factsheet-withdrawal-agreement-joint-committee/withdrawal-agreement-joint-committee> [accessed 14 July 2021]

30 Cabinet Office, *Withdrawal Agreement Joint Committee Annual Report for the year 2020* (23 June 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/997012/Withdrawal\\_Agreement\\_Joint\\_Committee\\_Annual\\_Report\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997012/Withdrawal_Agreement_Joint_Committee_Annual_Report_2020.pdf) [accessed 14 July 2021]

31 European Union Committee, *Brexit: the revised Withdrawal Agreement and Political Declaration* (1st Report, Session 2019–20, HL Paper 4) para 38

even summary minutes might not be made publicly available. This is an unsatisfactory state of affairs".<sup>32</sup>

*The Specialised Committee on Citizens' Rights*

42. The Specialised Committee on Citizens' Rights facilitates the implementation and application of Part Two of the Withdrawal Agreement. The Specialised Committee has a key role in ensuring that UK citizens in the EU, EU citizens in the UK, and their family members are afforded their rights and entitlements under the Agreement. It also advises the Joint Committee on citizens' rights matters.
43. At the meeting of the Specialised Committee meeting on 23 February 2021, the first since the end of the transition period, the UK and EU agreed that it would meet at least every three months throughout 2021.<sup>33</sup> A further meeting took place on 28 April 2021, at which the Third Joint Report on Residence was presented.<sup>34</sup> Specific attention at the latter meeting was given to countries with a constitutive system, in light of approaching deadlines for applications and the potential handling of applications submitted after the deadline. Both sides emphasised the importance of providing clear communications and comprehensive support to vulnerable or hard to reach citizens.
44. On 29 June 2021 the Specialised Committee published its Fourth Joint Report.<sup>35</sup> Data from this report on Member States' implementation of their citizens' rights obligations is set out in Tables 1 and 2.
45. An initial request from British in Europe and the 3million (the leading campaign group for EU citizens in the UK) to have observer status at the Specialised Committee received non-committal responses from both the UK and EU, but they were allowed to attend the second meeting of the Specialised Committee held on 6 August 2020. Jane Golding confirmed to us: "We feed in issues to the Specialised Committee and are heard by it, which is quite unusual for a civil society organisation."<sup>36</sup> Similarly, the Specialised Committee has provided a forum for the EU to make representations regarding EU citizens in the UK. In the same way, it is the structure whereby the UK can make representations on behalf of UK citizens living in the EU.
46. Giving an example of the function of the Specialised Committee, Foreign, Commonwealth and Development Minister Wendy Morton MP, responsible for UK citizens' rights in the EU, told us that the Government had used it to raise issues about difficulties UK citizens had encountered in evidencing their rights in different Member States.<sup>37</sup>

---

32 *Ibid.*

33 FCDO, 'Joint statement following the meeting of the Citizens' Rights Specialised Committee' (23 February 2021): <https://www.gov.uk/government/news/specialised-committee-on-citizens-rights-meeting-february-2021-joint-statement> [accessed 14 July 2021]

34 FCDO, 'Joint statement following the meeting of the Citizens' Rights Specialised Committee' (28 April 2021): <https://www.gov.uk/government/news/specialised-committee-on-citizens-rights-joint-statement-28-april-2021> [accessed 14 July 2021]

35 European Commission, Specialised Committee on Citizens' Rights, *Fourth Joint Report on the Implementation of Residence Rights under Part Two of the Withdrawal Agreement* (29 June 2021): [https://ec.europa.eu/info/sites/default/files/fourth\\_report\\_draft\\_final\\_version\\_for\\_publication\\_en.pdf](https://ec.europa.eu/info/sites/default/files/fourth_report_draft_final_version_for_publication_en.pdf) [accessed 14 July 2021]

36 [Q 11](#)

37 [Q 29](#)

### Prior concerns about the implementation of citizens' rights

47. On 14 May 2020, the Chancellor of the Duchy of Lancaster and then UK Co-Chair of the Withdrawal Agreement Joint Committee, Rt Hon Michael Gove MP, wrote to his counterpart, Commission Vice-President Maroš Šefčovič, citing a range of issues with Member States' implementation of their citizens' rights obligations, including communication problems, short application windows and overly complex procedures.<sup>38</sup> In June and July 2020, in evidence to the House of Commons Committee on the Future Relationship with the European Union, campaign groups expressed similar concerns, and also highlighted issues with the UK system, particularly in relation to vulnerable individuals who might be missed by the EU Settlement Scheme.<sup>39</sup>
48. Detailed concerns raised by our witnesses about the UK and Member States' implementation of citizens' rights under the Withdrawal Agreement are set out in Chapters 3 and 4 of this report, respectively.

### The effect of UK-EU relations on citizens' rights issues

49. Since January 2021 UK-EU relations have been characterised by a series of problems, including ongoing tensions over the implementation of the Protocol on Ireland/Northern Ireland, a dispute between Jersey and France over the issuing of fishing licences under new arrangements in the TCA, and disagreements over the availability of COVID-19 vaccines.
50. Some of our witnesses expressed concern that these tensions could affect the ability of both sides to resolve any citizens' rights issues. Jane Golding told us: "A problem at the moment is the relationship between the UK and the EU. I think levels of trust are quite bad ... which makes it more difficult for them to have very constructive discussions on these issues."<sup>40</sup> Dr Michaela Benson, Project Lead of the BrExpats Research Project, which examines the impact of Brexit on UK citizens living in the EU27, also said that reports about those tensions in certain sections of the UK media aggravated the difficulties between the UK and EU, in turn increasing the challenges faced by citizens seeking to access their post-Brexit rights.
51. In response to these concerns, Home Office Minister Kevin Foster MP (who has responsibility for the Settlement Scheme) told us that the EUSS was "not based on any ongoing trading relationship or issues like that. It was established before both the Withdrawal Agreement and the comprehensive future partnership agreement were reached with the European Union".<sup>41</sup> As far as EU citizens in the UK were concerned, "People's status is secure and created under UK immigration law and it will not be affected by any of the current discussions or debates."<sup>42</sup>

---

38 Letter from Michael Gove MP, Chancellor of the Duchy of Lancaster to Maroš Šefčovič, Vice President of the EU Commission, 14 May 2020: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/885252/200514\\_Letter\\_from\\_Rt\\_Hon\\_Michael\\_Gove\\_MP\\_to\\_VP\\_Sefcovic.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885252/200514_Letter_from_Rt_Hon_Michael_Gove_MP_to_VP_Sefcovic.pdf) [accessed 14 July 2021]

39 Oral evidence before the Committee on the Future Relationship with the European Union, 7 July 2021 (Session 2019–21), [QQ 515–558](#)

40 [Q 16](#)

41 [Q 31](#)

42 *Ibid.*

52. On 24 June 2021 the EU Ambassador to the UK João Vale de Almeida told us that he hoped the difficulties in the UK-EU relationship would not spill over into citizens' rights matters:

“I look forward to a lowering of temperature in the public discourse about this relationship. I think that it is a collective responsibility to further de-dramatise this relationship and look at concrete answers to concrete problems, within the terms of the agreements we made.”<sup>43</sup>

53. **Currently, the UK, the EU Commission and EU Member States have taken a constructive approach to citizens' rights, which we welcome. But both sides need to be vigilant that the wider issues in their relationship do not spill over into citizens' rights issues. Given the importance of these matters to millions of individuals, we recommend both sides continue this positive approach to discharging their citizens' rights obligations under the Withdrawal Agreement, regardless of wider tensions in their relationship.**

## CHAPTER 3: EU CITIZENS' RIGHTS IN THE UK

---

### Background: the EU Settlement Scheme

54. The UK's EU Settlement Scheme (EUSS) requires eligible citizens who have lived in the UK for five years or longer to apply for settled status, which in turn allows them to remain in the UK indefinitely. Eligible citizens who have lived in the UK for fewer than five continuous years are given 'pre-settled status', which gives them a further five years temporary leave to remain in the UK; once they have reached five years' continuous residence they can apply for settled status.
55. The EUSS is run by the Home Office. A test phase of the Scheme began on 28 August 2018 and it was launched in full on 31 March 2019, well before the entry into force of the Withdrawal Agreement on 31 January 2020. The Scheme has therefore been open for longer than any of those in EU member States with constitutive systems (the earliest of which opened in February 2020, and some of which did not open until January 2021).<sup>44</sup> The deadline for applications under the EUSS was 30 June 2021, the earliest date permitted under the Withdrawal Agreement. The legal requirements of the EUSS are set out in full in Appendix EU of the Immigration Rules.<sup>45</sup>
56. The EUSS checks three basic requirements: identity, UK residence, and suitability. The 'suitability' requirement covers matters such as criminal conduct leading to a deportation order, or false information provided during an application. According to Home Office statistics, of the 55,590 applications refused in the period to 31 March 2021, more than 99% were refused on eligibility grounds and fewer than 1% were refused on suitability grounds.<sup>46</sup> The Government had also originally intended to charge a £65 fee for registration, which is permitted under the Withdrawal Agreement, but this was waived in 2019.<sup>47</sup>
57. The Home Office releases monthly and quarterly statistics on the EUSS. As of the deadline on 30 June 2021, there had been 6,015,400 applications in total, of which 5,446,300 had been concluded. Of those applications concluded, 52% were granted settled status and 43% were granted pre-settled status. Some 2% of concluded applications were refused, 1% withdrawn or void, and 1% invalid (see Chart 1).<sup>48</sup> These figures account for the number of applications to the system rather than the number of applicants, and therefore include repeat applications (of which there were 311,870 to 31 March 2021, 6% of the total).

---

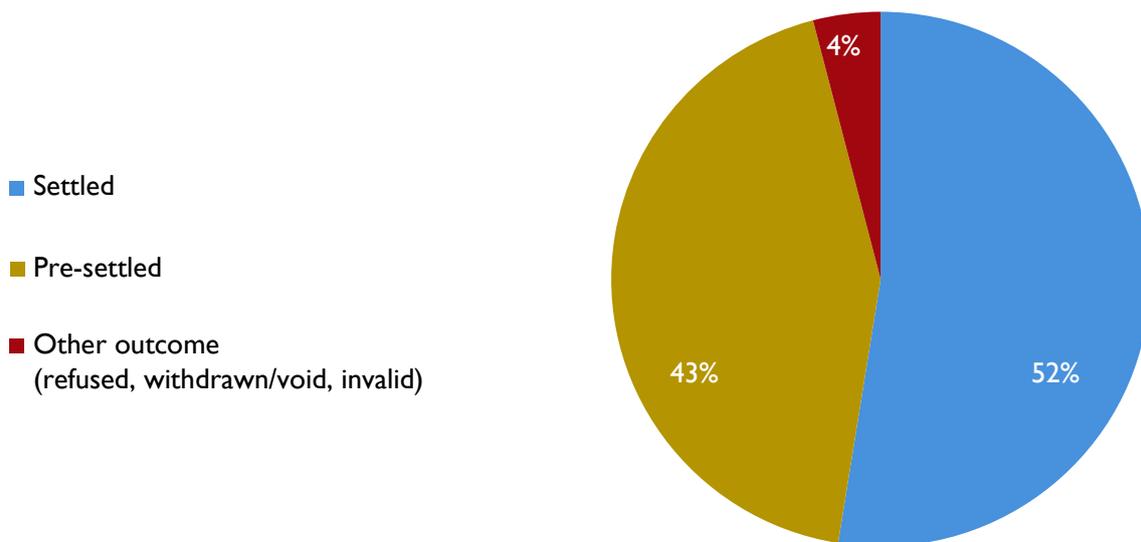
44 Cabinet Office, *Third Joint report on the implementation of residence rights under part two of the Withdrawal Agreement* (28 April 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/990420/Specialised\\_Committee\\_on\\_Citizens\\_Rights\\_Third\\_UK-EU\\_Joint\\_Report\\_on\\_Residence\\_28\\_April\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/990420/Specialised_Committee_on_Citizens_Rights_Third_UK-EU_Joint_Report_on_Residence_28_April_2021.pdf) [accessed 14 July 2021]

45 Home Office, 'Immigration Rules' (25 February 2016): <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu> [accessed 14 July 2021]

46 Home Office, 'EU Settlement Scheme quarterly statistics, March 2021' (1 June 2021): <https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-march-2021> [accessed 14 July 2021]

47 BBC News, 'Brexit: Theresa May scraps £65 fee for EU citizens to stay in UK' (21 January 2019): <https://www.bbc.co.uk/news/uk-politics-46950719> [accessed 14 July 2021]

48 Home Office, 'EU Settlement Scheme statistics' (30 May 2019): <https://www.gov.uk/government/collections/eu-settlement-scheme-statistics> [accessed 14 July 2021]

**Figure 1: EUSS applications by outcome as of 30 June 2021**

Source: Home Office, *EU Settlement Scheme statistics*

58. The size of the EU population in the UK appears to have been significantly underestimated by the ONS, which put the resident EU population in 2019 at 3.7 million although 5.4 million people have so far successfully applied under the EUSS, and the final total will be higher.<sup>49</sup> Whatever the precise figure, the resident EU population in the UK is far larger than the estimated UK resident population in the EU as a whole (around 1.1 million),<sup>50</sup> let alone that in any one Member State.

### The overall implementation of the EUSS

59. Witnesses were broadly positive about the implementation of the EUSS, and agreed that the overall number of applications was “impressive”.<sup>51</sup> The UK’s Independent Monitoring Authority (IMA) said that “processing this volume of applications is a considerable achievement by the Home Office”,<sup>52</sup> while Fiona Costello, Research Associate at the University of Cambridge, said: “The numbers of applications to date are a tribute to the success of the Scheme so far. To roll out a digital automated scheme to this scale in the timeframe that has been available is extraordinary.” She added, however, that “it is important not to let the big numbers overshadow those for whom the Scheme and its implementation have not worked”.<sup>53</sup> Similarly, Kate Smart of Settled said: “The Home Office has done a remarkable job in the circumstances, helping millions of people through the system, but ... there is so much more work to be done.”<sup>54</sup>

49 Office for National Statistics, ‘Population of the UK by country of birth and nationality: 2019’ (21 May 2020): <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/ukpopulationbycountryofbirthandnationality/2019> [accessed 14 July 2021]

50 Cabinet Office, *Third joint report on the implementation of residence rights under part two of the Withdrawal Agreement* (28 April 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/990420/Specialised\\_Committee\\_on\\_Citizens\\_Rights\\_Third\\_UK-EU\\_Joint\\_Report\\_on\\_Residence\\_28\\_April\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/990420/Specialised_Committee_on_Citizens_Rights_Third_UK-EU_Joint_Report_on_Residence_28_April_2021.pdf) [accessed 14 July 2021]

51 Q 1 (Monique Hawkins)

52 Written evidence from the Independent Monitoring Authority (CIT0006)

53 Q 1 (Fiona Costello)

54 Q 1 (Kate Smart)

60. The EU Ambassador to the UK, João Vale de Almeida, agreed that, judged by the numbers of applicants, the EUSS had been “very good, even excellent, and went beyond our expectations”. The Ambassador also praised the Home Office’s grant funding programme and information campaigns, and added that there had been “constructive co-operation” between the EU and the UK Government, particularly the Home Office, over EU citizens’ rights.<sup>55</sup>
61. Despite this success, we were warned that the EU resident population in the UK is so large that even a highly successful rollout could leave many EU citizens without rights. Fiona Costello told us: “On the general estimated population figures of between 3.6 million and 5 million ... even if 1% of people do not apply to the Scheme, that would be 30,000 to 50,000 people.” Similarly, we heard from the IMA that “it is inevitable in an exercise of this scale mistakes will be made”.<sup>56</sup>
62. The uncertainty over the number of eligible citizens gives rise to corresponding uncertainty over the number who failed to apply on time. Monique Hawkins, Policy and Research Officer for the 3million told us: “By definition, we cannot know what the numbers are,”<sup>57</sup> while Madeleine Sumption, Director of the Migration Observatory, said that Home Office figures “do not tell us whether the programme has been ‘successful’ ... they tell us nothing about how many people have not yet applied.”<sup>58</sup> Ambassador Vale de Almeida also described the EUSS as a “moving target”, due to the uncertainty over the eligible population.<sup>59</sup>
63. The Home Office states on its website that its application statistics “cannot be directly compared with estimates of the resident population of EU/EEA nationals in the UK. [The] figures ... include non-EEA national family members and eligible EEA nationals not resident in the UK”.<sup>60</sup> Home Office internal analysis in March 2019 estimated that the number of EEA citizens resident in the UK and their family members eligible to apply to the EUSS by the end of the transition period would be between 3.5 and 4.1 million, but this has been significantly outstripped by the number of applications to date.<sup>61</sup> Kevin Foster MP, Home Office Minister responsible for the EUSS, acknowledged the difficulties in estimating the size of the eligible population, but added: “All our estimates, projections and work engagement we undertake indicate that the vast majority have now applied and have secured status.”<sup>62</sup> As discussed in paragraphs 117–119, EU citizens in the UK who have “reasonable grounds” for missing the deadline may submit a late application to the EUSS.
64. Better data have been gathered and published in relation to the number of eligible children in care and care leavers. Data collected by the Home Office

---

55 Oral evidence taken before European Affairs Committee, inquiry on UK-EU relations, 24 June 2021 (Session 2021–22), [Q 8](#) (Ambassador Vale de Almeida)

56 Written evidence from the Independent Monitoring Authority ([CIT0006](#))

57 [Q 2](#) (Monique Hawkins)

58 Written evidence from Migration Observatory ([CIT0007](#))

59 Oral evidence taken before European Affairs Committee, inquiry on UK-EU relations, 24 June 2021 (Session 2021–22), [Q 7](#) (Ambassador Vale de Almeida)

60 Home Office, ‘EU Settlement Scheme quarterly statistics, March 2021’ (1 June 2021): <https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-march-2021/eu-settlement-scheme-quarterly-statistics-march-2021> [accessed 14 July 2021]

61 Home Office, ‘Impact Assessment for EU Settlement Scheme - Updated analysis’ (March 2019): [https://www.legislation.gov.uk/ukia/2019/74/pdfs/ukia\\_20190074\\_en.pdf](https://www.legislation.gov.uk/ukia/2019/74/pdfs/ukia_20190074_en.pdf) [accessed 14 July 2021]

62 [Q 18](#) (Kevin Foster MP)

from local authorities, aimed at identifying how many children in care and care leavers were eligible for the Scheme, highlighted that as of late April 2021 3,660 young people were eligible, of whom only 67% had applied.<sup>63</sup>

65. Witnesses highlighted other strengths and weaknesses of the EUSS. Fiona Costello said that the “ethos of granting status, rather than not granting status, has been very much welcomed by front-line advice agencies”. Monique Hawkins, on the other hand, said she had “a couple of concerns” about transparency and data sharing.<sup>64</sup>
66. The EU Rights and Brexit Hub, a legal action research project based at the University of York, told us that their work with local authorities and charities “provides a mixed picture of the Home Office’s roll out of the EUSS”. While the Home Office had been “very successful in communicating about the EUSS to different stakeholders”, it had “tended to approach its role in the EUSS roll-out as one of providing information ... rather than proactive co-ordination”. The EU Rights and Brexit Hub also argued that Home Office collaboration with the Department of Work and Pensions (DWP) to identify the contact details of individuals subject to a residual residency test, “Only commenced in April 2021 ... [which] was too late, creating a risk of last minute and late applications, and could patently have begun earlier.”<sup>65</sup>
67. Kevin Foster MP told us that the Home Office had worked closely with other departments, such as Her Majesty’s Revenue and Customs (HMRC) and the DWP, as well as community groups and local authorities, in order to reach EU citizens and process EUSS applications. He concluded:
- “Without the partnership-working we have had with other government departments, with local government and community stakeholders more widely, we certainly would not have had the type of success we have had in the sheer volume of applications we have received and managed to decide on.”<sup>66</sup>
68. The Cabinet Office Minister and UK co-chair of the Withdrawal Agreement Joint Committee, Lord Frost, said:
- “We have tried to be as clear as we possibly can that EU citizens here are our friends and neighbours, and we want them to stay. The huge number of registrations there have been with the Scheme already show that the Scheme is working well.”<sup>67</sup>
69. **The number of concluded applications to the EU Settlement Scheme is a considerable achievement by the Home Office. There are many more EU citizens in the UK than there are UK citizens across the EU,**

---

63 Home Office, ‘EU Settlement Scheme - Home Office looked after children and care leavers survey 2021’ (13 May 2021): <https://www.gov.uk/government/publications/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2021#fn:5> [accessed 14 July 2021]. Even this figure could be an over-estimate if there are some children in care who were not identified by local authorities. This is concerning because, as Madeleine Sumption told us, “there is no reason to believe that children in care and care leavers are the only vulnerable group with substantial numbers who have not applied”. Written evidence from Migration Observatory (CIT0007).

64 Q 1

65 Written evidence from the EU Rights and Brexit Hub (CIT0005)

66 Q 17 (Kevin Foster MP)

67 Oral evidence taken before European Affairs Committee, inquiry on UK-EU relations, 24 June 2021 (Session 2021–22), Q 6 (Lord Frost)

**and the UK Government faced a huge challenge in encouraging and processing over 5.4 million applications ahead of the deadline. We also welcome the Home Office's approach of looking for reasons to grant status, rather than reasons to refuse.**

70. **Some EU Member States have constitutive systems and others have declaratory systems. We note that the UK's EU Settlement Scheme has been open for nearly a year longer than the earliest constitutive scheme opened in the EU.**
71. **At the same time, because there are so many EU citizens in the UK, failure by even a tiny percentage of the total eligible cohort to apply may mean thousands of individuals slipping through the cracks. The issues these individuals face will remain an ongoing challenge for the Government.**
72. **We are concerned that the relatively low numbers of applicants to the EUSS among children in care and care leavers may also be reflected in other vulnerable groups, who, by their nature, may be difficult to reach. While the lack of comprehensive data makes it difficult to know for certain how many EU citizens failed to apply on time, the Home Office should continue to do all it can to reach those who missed the deadline, especially vulnerable persons, and encourage them to make a late application.**

#### **Verification of rights under the Withdrawal Agreement**

73. Notwithstanding the Government's significant achievement in rolling out the EUSS, we heard concerns over the legal status conferred under the Scheme, in particular over whether it is aligned with the rights set out in the Withdrawal Agreement. Monique Hawkins described a "fundamental design flaw" in the Scheme: "Some people who get settled status are covered by the Withdrawal Agreement; others are not. Likewise, there are people who are covered by the Withdrawal Agreement who are not able to get proof of being in scope. There is a bit of a mismatch at the heart of it."<sup>68</sup>
74. Professor Charlotte O'Brien of the University of York explained that this mismatch arises because the Withdrawal Agreement and the EUSS have "different eligibility conditions".<sup>69</sup> The UK has been "more generous", by allowing anyone who can evidence residence and ID to apply without having to prove that they were exercising EU free movement rights when they arrived in the UK. But the result of this generosity is that "both those who are in or out of scope of the Withdrawal Agreement are eligible for status" and "there is no way of telling them apart".<sup>70</sup>
75. This could give rise to a difficulty, because as well as protecting the right to reside, the Withdrawal Agreement protects certain additional rights for eligible citizens which are not automatically afforded to those who hold settled status. Instead, there is now a 'true cohort' and an 'extra cohort' who have different rights, but are indistinguishable on the basis of their EUSS status. For example, the Government subjects individuals with pre-settled status who apply for universal credit to a "complex test to see whether they were exercising treaty rights on 31 December 2020", because their

---

68 [Q1](#) (Monique Hawkins)

69 Written evidence by Professor Charlotte O'Brien ([CIT0004](#))

70 Written evidence from the3million ([CIT0010](#))

pre-settled status is not treated as evidence of rights under the Withdrawal Agreement.<sup>71</sup> The3million suggested that this problem could be rendered “moot” by ensuring that everyone with settled or pre-settled status had “identical rights, without further tests down the line to determine true/extra cohort membership”.<sup>72</sup>

76. Professor Charlotte O’Brien argued that if the EUSS and the Withdrawal Agreement are different in scope then this “opens up different avenues of enforcement—with some EU citizens benefiting from input and support from the Independent Monitoring Authority; and from input from the CJEU, and others excluded”. Professor O’Brien argued that this could have a “disproportionate and detrimental impact upon vulnerable EU citizens,” who are more likely to be members of the so-called ‘extra cohort’.<sup>73</sup>
77. Witnesses even suggested that this mismatch could be problematic in terms of the UK’s obligations under the Withdrawal Agreement, pointing out that under Article 18 a new residence status under a constitutive system should “verify whether the applicant is entitled to the residence rights set out in this Title”.<sup>74</sup> Professor Charlotte O’Brien asked: “If the EUSS does not confer the rights under that title, then we have to ask—what does?”<sup>75</sup>
78. The EU also expressed concerns about these matters in the joint statement after the meeting of the Specialised Committee on Citizens’ Rights on 17 June 2021:
- “The EU highlighted their concerns as regards the compatibility with the Withdrawal Agreement of the UK’s EU Settlement Scheme in not making a clear distinction between the beneficiaries of the Withdrawal Agreement (the so-called ‘true cohort’) and non-beneficiaries who are granted status under UK immigration law (the so-called ‘extra cohort’), despite not exercising a qualifying Treaty right.”<sup>76</sup>
79. The Minister, Kevin Foster MP, confirmed to us: “The EUSS’s eligibility criteria are very different from the specific rules around the free movement regulations ... because it is much more generous.” He stressed, though, that “no one has any lesser rights than they would be entitled to under the Withdrawal Agreement” and dismissed the EU’s concerns on this issue as a “philosophical point”.<sup>77</sup>
80. **We welcome the Government’s decision to take a more generous approach to eligibility for the Settlement Scheme than the Withdrawal Agreement requires, but this has potentially led to a misalignment between status under the Settlement Scheme and rights under the Withdrawal Agreement. There may be a risk of legal uncertainty for some EU citizens if they cannot use their EUSS status to evidence**

---

71 Written evidence from the3million ([CIT0010](#))

72 *Ibid.*

73 Written evidence by Professor Charlotte O’Brien ([CIT0004](#))

74 Written evidence by Professor Charlotte O’Brien ([CIT0004](#)), written evidence from the3million ([CIT0010](#)) and *Withdrawal Agreement*, Article 18(1).

75 Written evidence by Professor Charlotte O’Brien ([CIT0004](#))

76 FCDO, ‘Citizens’ Rights Specialised Committee meeting, 17 June 2021: joint statement’ (17 June 2021): <https://www.gov.uk/government/news/citizens-rights-specialised-committee-meeting-17june-2021-joint-statement> [accessed 14 July 2021]

77 [Q 20](#) (Kevin Foster MP)

**their rights under the Agreement. Were this to be the case, it could have adverse consequences for those affected.**

81. **We recognise that there is a difference of opinion between the UK and the EU over this issue, and call on the Government to seek a resolution via the Specialised Committee as a matter of urgency.**

*Naturalised British citizens, family reunion rights and the EUSS*

82. We also heard concerns about naturalised British citizens and their inability to confirm via the EUSS their rights to be joined by other family members. These so-called *Lounes* dual-nationals, named after the CJEU judgment in which their situation was discussed, exercised their EU free movement rights to come to the UK, became UK citizens, and as a consequence are now unable to access the EUSS as the means by which to confirm their Withdrawal Agreement-based rights.<sup>78</sup>
83. The3million explained that “*Lounes* dual nationals have the right under the WA [Withdrawal Agreement] to be joined in the UK by certain family members”. However, because they have now become naturalised British citizens, they “are barred from obtaining evidence of their WA rights, as the EUSS does not allow applications from citizens who hold British nationality”.<sup>79</sup> Although naturalised UK citizens already have a right of residence, they may need to be able to prove their WA rights if they want to be able to bring family members to the UK.
84. The Home Office caseworker guidance notes acknowledge that so-called *Lounes* dual nationals have rights under the Withdrawal Agreement to be joined in the UK by certain other family members, but only explains the application process for the relevant family member.<sup>80</sup>
85. **According to the terms of the Withdrawal Agreement and the Court of Justice’s decision in *Lounes*, EU nationals who exercised their free movement rights, naturalised as British citizens, and satisfy the relevant criteria, enjoy family reunion rights. Although the Home Office guidance acknowledges the position of so-called *Lounes* dual nationals, we are concerned that because British citizens cannot access the EUSS, these individuals will find it hard in future to evidence these important rights. We invite the Government to set out how it intends to address this problem in its response to this report.**

**Vulnerable EU citizens**

86. The former EU Justice Sub-Committee highlighted that some EU citizens in the UK are more vulnerable to losing their rights than others (both in terms of missing the deadline and struggling to evidence their status). In a letter to the Home Secretary in February 2019, its Chair, Baroness Kennedy of The Shaws, noted that “a theme throughout these issues [with the EUSS]

---

78 Court of Justice of the European Union, *Toufik Lounes v Secretary of State for the Home Department* (2017) [C-165/16](#)

79 Written evidence from the3million ([CIT0010](#))

80 Home Office, *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members* (21 May 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/988540/main-euss-guidance-v12.0-gov-uk.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/988540/main-euss-guidance-v12.0-gov-uk.pdf) [accessed 14 July 2021]

is whether the Government is doing enough to engage with vulnerable EU/EEA nationals resident in the UK”.<sup>81</sup>

87. In February 2020 the EU Justice Sub-Committee heard evidence from three organisations—Crisis, Rights of Women and the Refugee and Migrant Children’s Consortium—who had been supporting vulnerable applicants (respectively, the homeless, vulnerable women, and children in care).<sup>82</sup> In a subsequent letter to the Immigration Minister, Baroness Kennedy’s successor as Chair, Lord Morris of Aberavon, wrote: “Our concern is that for those with less straightforward lives, including some of the most vulnerable in our society, the [settlement] Scheme does not appear to be suited to (or sufficient for) their needs.”<sup>83</sup>
88. A report by the Migration Observatory in 2020 identified four categories of vulnerable people who were at risk of missing the 30 June deadline:<sup>84</sup>
- (a) Those who were unaware that the Scheme exists, or that they needed to apply for it: for example, very long-term residents, those with permanent residence, or EU citizens born outside the EU.
  - (b) Those who already faced social exclusion or reduced autonomy of some kind: for example, children in care and care leavers, victims of domestic abuse or modern slavery, the homeless, and Roma communities.
  - (c) Those who struggled to navigate the application process: for example, because of language barriers, mental health problems, or low levels of digital literacy.
  - (d) Those who lacked evidence to prove their eligibility: for example, those without bank accounts or proof of address.
89. We received considerable evidence on the issues facing vulnerable groups. Fiona Costello told the Committee that these included “those who are digitally excluded, those who lack evidential paperwork, those who ... have found it difficult to prove their residency ... and those who are simply unaware of the Scheme”.<sup>85</sup> The AIRE Centre, a legal charity which receives Home Office grant funding to support vulnerable groups, cited “victims of abuse, those who may lack mental capacity, the homeless, and children in care/care leavers”, and criticised a “lack of any adequate proactive steps to identify and assist those whose care and support needs ... meant that they cannot apply for themselves”.<sup>86</sup>
90. The IMA said they had heard “increasing concerns about a lack of awareness and an inability to navigate the process” by vulnerable groups. They added

---

81 Letter from Baroness Kennedy of The Shaws, Chair of the Justice Sub-Committee, to Rt Hon Sajid Javid MP, Home Secretary, 27 February 2019: <https://www.parliament.uk/globalassets/documents/lords-committees/eu-justice-subcommittee/CWM/HKtoSJ-SettledStatus-260219.pdf> [accessed 14 July 2021]

82 Oral evidence taken before the EU Justice Sub-Committee, inquiry on Brexit: citizens’ rights, 4 February 2020 (Session 2019–21), [QQ 59–67](https://www.parliament.uk/globalassets/documents/eu-justice-subcommittee/20200204-oral-evidence-citizens-rights.pdf)

83 Letter from Lord Morris of Aberavon, Chair of the EU Justice Sub-Committee, to Kevin Foster MP, Parliamentary Under Secretary of State for Immigration, Home Office, 25 February 2020: <https://committees.parliament.uk/publications/39/documents/673/default/>

84 Migration Observatory, ‘Unsettled Status - 2020: Which EU Citizens are at Risk of Failing to Secure their Rights after Brexit?’ (24 September 2020): <https://migrationobservatory.ox.ac.uk/resources/reports/unsettled-status-2020/> [accessed 14 July 2021]

85 [Q 1](#)

86 Written evidence from the AIRE Centre ([CIT0001](#))

that it will be difficult to know the impact of this, as “there is a lack of data about how many individuals are in these cohorts”.<sup>87</sup>

91. Another potentially vulnerable group is made up of those with EEA permanent residency. Fiona Costello told us there had been a huge increase in applications for permanent residency in the wake of the referendum, and that these people “may not realise that that permanent residency is now defunct and that they need to reapply under the EU Settlement Scheme”.<sup>88</sup> Kate Smart agreed: “People think that it [EUSS] does not apply to them because ... [they think] if they have a permanent resident’s card, it is just that—a permanent resident’s card.”<sup>89</sup>

#### *Older adults and digital exclusion*

92. Witnesses told us that older EU citizens were particularly vulnerable to losing their rights, especially those unfamiliar with digital technology. New Europeans UK, a charity supporting EU citizens to access their rights, told us they were “worried” about older EU citizens “both in terms of exercising their rights ... and in respect of accessing their digital EUSS status”. They said they had “encountered many individuals who have no mobile phone, no digital access and inappropriate or no documentation”.<sup>90</sup>
93. New Europeans UK therefore gave us the following warning: “We believe there are a significant number of older Europeans who have still not applied. We are particularly concerned for Italian nationals who came post war ... many of whom are now pensioners.”<sup>91</sup> Home Office statistics show that just 2% of EUSS applications by 31 March 2021 had come from over-65s, but it is not clear whether this is an accurate reflection of the eligible population.<sup>92</sup> Ambassador Vale de Almeida highlighted these figures, adding that the EU was “concerned” about them.<sup>93</sup>

#### *The effect of the COVID-19 pandemic*

94. We also heard that existing vulnerabilities had been exacerbated by the COVID-19 pandemic. Fiona Costello explained: “If your barrier to making an application to EUSS is your digital skills, you will struggle to access ... support that went remote and digital.”<sup>94</sup> Similarly, the AIRE Centre said that lockdowns had “limited the ability of organisations to provide in-person appointments and direct support to clients, which are particularly helpful/needed when assisting vulnerable groups to apply using the relevant technology”.<sup>95</sup>
95. An alternative view of the effect of the pandemic was put forward by the EU Rights and Brexit Hub, which said it had had a “mixed effect” on the roll-out of the EUSS to vulnerable groups, with positives as well as negatives.

---

87 Written evidence from the Independent Monitoring Authority (CIT0006)

88 Q 2

89 Q 2

90 Written evidence from New Europeans UK (CIT0009)

91 *Ibid.*

92 Home Office, ‘EU Settlement Scheme quarterly statistics, March 2021’ (1 June 2021): <https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-march-2021/eu-settlement-scheme-quarterly-statistics-march-2021> [accessed 14 July 2021]

93 Oral evidence taken before European Affairs Committee, inquiry on UK-EU relations, 24 June 2021 (Session 2021–22), Q 8 (Ambassador Vale de Almeida)

94 Q 2

95 Written evidence from the AIRE Centre (CIT0001)

They acknowledged that “the end of face-to-face support significantly impedes access to the online system for applicants with literacy, disability or technological barriers”. But they also said that the pandemic had “strengthened local community networks and enabled local authorities to gain access to groups they did not previously have contact with”, such as homeless individuals who were housed in empty hotels.<sup>96</sup>

96. COVID-19 has also disrupted EU embassy and consular services in the UK, to the detriment of those needing to acquire or renew identity documents. Monique Hawkins explained, “In order to apply using the app, you need valid ID.”<sup>97</sup> There has been a real problem with being able to get appointments with consulates and embassies to renew passports.<sup>98</sup> The IMA also said that difficulties accessing EU embassies during COVID-19 had been “a theme in complaints we have received”.<sup>99</sup>

### *Government support for vulnerable persons*

97. The Government has put in place provisions to help vulnerable people. In 2019 it awarded £9 million of funding to help vulnerable EU citizens, with a further £8 million subsequently announced for the 2020/21 financial year, and an additional £4.5 million announced in February 2021.<sup>100</sup> This funding supports 72 organisations working with vulnerable or hard-to-reach individuals, and currently runs until 30 September 2021.<sup>101</sup>
98. The Home Office Minister, Kevin Foster MP, emphasised that his Department was focused on “the quality ... rather than just the quantity” of assistance from these organisations, and was therefore not setting numerical targets for assisting applications, as grant-funded organisations might need to “put in more time per case”.<sup>102</sup> He also highlighted that the Home Office had been able to reach vulnerable groups by collaborating with other bodies, such as local authorities with respect to children in care.<sup>103</sup>
99. Witnesses also raised questions over the longevity of this Government funding. The EU Rights and Brexit Hub cited “the long-term costs of supporting EU citizens with late applications and the need for upgrading from pre-settled status to settled status over the next five years” as reasons why long-term funding may be needed.<sup>104</sup> Kevin Foster, however, told us that when the current funding expires, the Home Office will “work with the grant-funded organisations to see what demand there is ... then we will take a decision on whether we need to fund beyond that”.<sup>105</sup> He also suggested that in the future, “with the sheer numbers who have now applied, we expect

---

96 Written evidence from EU Rights and Brexit Hub (CIT0005)

97 Eligible citizens can use the EU Exit: ID Document Check app to complete the identity stage of their application under the EUSS, although they can also do so in person or by post.

98 Q 2, see also written evidence from the AIRE Centre (CIT0001).

99 Written evidence from the Independent Monitoring Authority (CIT0006)

100 Home Office, ‘£8 million to help vulnerable people apply to the EU Settlement Scheme’ (6 March 2020): <https://www.gov.uk/government/news/8-million-to-help-vulnerable-people-apply-to-the-eu-settlement-scheme> [accessed 14 July 2021]

101 Home Office, ‘Landmark EU Settlement Scheme reaches five million applications’ (11 February 2021): <https://www.gov.uk/government/news/landmark-eu-settlement-scheme-reaches-five-million-applications> [accessed 14 July 2021]

102 Q 23 (Kevin Foster MP)

103 Q 17 (Kevin Foster MP)

104 Written evidence from EU Rights and Brexit Hub (CIT0005)

105 Q 23 (Kevin Foster MP)

... [it to be] more common that we are supporting those with status, and to access that, rather than supporting them in making an application".<sup>106</sup>

100. The Home Office's guidance to caseworkers on dealing with late applications includes a list, which is "not exhaustive", of potential "reasonable grounds" for a late application. These are aligned with the issues facing particular vulnerable groups (children in care, those lacking in physical or mental capacity, and victims of modern slavery or domestic abuse are all cited, as are "other compelling practical or compassionate reasons").<sup>107</sup> Monique Hawkins told us, though, that this approach still does not take into account the difficulties faced by the vulnerable, due to the lack of a legal safety net for late applicants (discussed in more detail in paragraphs 137–146).<sup>108</sup> The IMA observed that the vulnerable groups will be "a key test for the way in which the Home Office deals with late applications to the Scheme".<sup>109</sup>
101. **Some EU citizens living in the UK are particularly vulnerable to losing their rights, such as older adults, those with now defunct EEA permanent residency, and those unfamiliar with digital technology. These vulnerabilities have, in many cases, been exacerbated by the lack of in-person support and services during the pandemic. How many of these individuals missed the deadline, and the Government's response to their circumstances, will be key indicators of the Settlement Scheme's success.**
102. **We are concerned by the low proportion of applications from older EU citizens, who are more vulnerable to digital exclusion: just 2% of all applications to the Settlement Scheme are from over-65s. Some witnesses suggested that this may indicate low take-up. We call on the Government to explain whether it shares these concerns, and if so, what steps it intends to take to ensure that over-65s are supported in making late applications.**
103. **We welcome the Government's support for vulnerable groups via grant-funded organisations. While this funding is currently set to expire at the end of September 2021, we anticipate that the problems facing vulnerable EU citizens will persist for longer. We welcome the Minister's indication that the Government will consult on extending this funding further. In our view it should be, and we request that the Government update Parliament on the outcome of those consultations as soon as possible.**
104. **Vulnerable EU citizens are classed as such because they were at risk of missing the 30 June deadline. The best way to protect the rights of the vulnerable is to ensure protections are in place for late applicants. While we welcome the inclusion in current Home Office guidance of a number of vulnerabilities as potential "reasonable grounds" for late applications, we remain concerned that these protections may not be sufficient. Greater clarity and more comprehensive legal safeguards may be needed.**

---

106 [Q 23](#) (Kevin Foster MP)

107 Home Office, *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members*

108 [Q 5](#)

109 Written evidence from the Independent Monitoring Authority ([CIT0006](#))

### The 30 June 2021 deadline

105. The deadline for applications under the EUSS was 30 June 2021, the earliest date permitted under the Withdrawal Agreement.<sup>110</sup> In evidence taken ahead of the deadline, several witnesses suggested that there was a case for an extension. Monique Hawkins, for example, said that while “you need a deadline to encourage people to take the step to make the application”, it would be “sensible” to have an extension of six months to a year given “the unique circumstances of COVID”.<sup>111</sup>
106. At the same time, witnesses warned that extending the deadline would not solve all the problems, and that it was more important to have protections in place for those who miss the deadline. Monique Hawkins said that extending would mean “kicking the same problems down the road, in a sense” and stressed the need to “put in place the legislative protection” for late applicants “regardless of what the deadline is”. Kate Smart added that “if you have a 12-month extension, there will still be some people who miss that deadline ... there will need to be a safety net for people”.<sup>112</sup>
107. In evidence given on 22 June 2021, the Minister, Kevin Foster MP, confirmed that the Home Office would not be extending the deadline, citing the “sheer volume” of successful applications to date and the fact that the UK’s Scheme had been open for a longer window than equivalent schemes in the EU.<sup>113</sup>
108. **The Government chose not to extend the 30 June deadline for the EUSS. Although we heard support from witnesses for a short extension, this would not in itself have resolved the fundamental issues facing many EU citizens in the UK. Now the deadline itself has passed, putting appropriate protections in place for those who have missed it is all the more important. In line with the criteria in Article 18 of the Withdrawal Agreement, simply missing the deadline of 30 June 2021 must not result in the automatic rejection of an application.**

### *Application backlog*

109. As of the 30 June 2021 deadline, Home Office statistics show that 6.02 million applications had been made, and 5.45 million concluded.<sup>114</sup> The gap of around 550,000 between these two figures suggests that there was a significant backlog in processing applications in the run up to the deadline, leaving thousands of EU citizens who applied on time but did not receive a decision until after the deadline (and in some cases may still have not received a decision).
110. The IMA told us that “delays with the processing of applications is a recurrent theme in many of the complaints we receive”.<sup>115</sup> The AIRE Centre, which had seen a “significant rise” in requests for assistance ahead of the

---

110 Article 18(1)(d) of the Withdrawal Agreement deals with the consequences of late applications. The Government must allow all late applicants “to submit an application within a reasonable further period of time if there are reasonable grounds for the failure to respect the deadline” and must also “assess all the circumstances and reasons for not respecting the deadline”. Late applications are discussed further in paras 116–136. *Withdrawal Agreement*, Article 18(1)(d).

111 [Q 5](#) (Monique Hawkins); see also [Q 5](#) (Kate Smart) and written evidence from the AIRE Centre ([CIT0001](#)).

112 [Q 5](#)

113 [Q 18](#) (Kevin Foster MP)

114 Home Office, ‘EU Settlement Scheme statistics’ (30 May 2019): <https://www.gov.uk/government/collections/eu-settlement-scheme-statistics> [accessed 14 July 2021]

115 Written evidence from the Independent Monitoring Authority ([CIT0006](#))

deadline, were “concerned that for vulnerable applicants, the processing of outstanding applications ahead of the deadline does not amount to a smooth, transparent or simple process”.<sup>116</sup>

111. The Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (the Temporary Protection Regulations) provide legal safeguards for those whose applications were pending as of 1 July. Those who were exercising a right to reside under the Immigration (EEA) Regulations 2016 at the end of the transition period, continue to do so, and applied to the EUSS before the deadline retain the right to reside in the UK. The Minister, Kevin Foster MP, told us: “Anyone who applies before the deadline will have their rights protected while the application is pending. That is set out in law.”<sup>117</sup>
112. Nonetheless, we heard concerns that the requirement under the Temporary Protection Regulations to check right-to-reside criteria at two different points in time creates “a substantial administrative burden”, as well as “uncertainty” for those who are out of scope of the 2016 EEA Regulations. The EU Rights and Brexit Hub warned of a “potentially stark difference in outcome” between those who received a decision before the deadline and those who did not, which “creates an arbitrary difference in treatment beyond the applicants’ control”.<sup>118</sup>
113. There is also a question over how those awaiting a decision prove their rights. Individuals who applied but are awaiting a decision should receive a “certificate of application”. However, we heard that this “is proof that they have applied ... not proof that they have status.”<sup>119</sup> Fiona Costello warned that this could lead to difficulties: “If a person was about to start a new job or move to a new house, an employer or landlord might be nervous about accepting their certificate of application and might err on the side of caution not to, because it is not proof of status.”
114. The Home Office’s caseworker guidance states that a certificate of application “does not confirm that the person has immigration status in the UK”, and the Government’s guidance for applying to the EUSS states that “you cannot use the [application certificate] letter itself to prove your status”.<sup>120</sup> On the other hand, Kevin Foster told us that an individual’s certificate of application, “When used alongside the Home Office checking system ... proves their right to work, rent housing and apply for eligible benefits.”<sup>121</sup>
115. **Most EU citizens who applied before the deadline but have not yet received a decision have their rights protected in law until a decision is made. This is welcome, given the apparent backlog in processing applications just before the deadline. We are concerned over the extent to which certificates of application can be used to prove rights in practice (given that these certificates do not confer status), and the uncertainty for those who may be out of scope of the 2016 EEA Regulations. We call on the Government to provide clarity on these points.**

---

116 Written evidence from the AIRE Centre ([CIT0001](#))

117 [Q 18](#) (Kevin Foster MP)

118 Written evidence from EU Rights and Brexit Hub ([CIT0005](#))

119 [Q 4](#) (Fiona Costello)

120 Home Office, *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members* and HM Government, ‘Apply to the EU Settlement Scheme (settled and pre-settled status)’ (2021): <https://www.gov.uk/settled-status-eu-citizens-families/after-youve-applied> [accessed 14 July 2021]

121 [Q 18](#) (Kevin Foster MP)

### After the deadline: late applications

116. In theory, EU citizens who did not apply before the 30 June deadline lost their right to residency overnight, along with their right to work, rent accommodation or claim benefits in the UK.
117. Article 18 of the Withdrawal Agreement, though, requires the Parties to accept late applications where there are “reasonable grounds” for the individual missing the deadline.<sup>122</sup> The Home Office’s online system for the EUSS remains open for late applications if the applicant can demonstrate that they have reasonable grounds.<sup>123</sup> Successive UK Governments have also stated that, as a matter of policy, they will take a “flexible” approach to applicants who miss the deadline.<sup>124</sup>
118. There was little clarity over what this “flexible” approach would look like in practice until April 2021, when the Home Office published internal guidance for caseworkers. Although the applicant is required to explain the reason for their failure to meet the deadline, Home Office caseworkers are encouraged, “for the time being”, to “give applicants the benefit of any doubt,” and, as with on-time applications, to look for reasons to grant status, not reasons to refuse.
119. As discussed in paragraph 100, the guidance includes examples of “reasonable grounds” which take account of particular vulnerable groups.<sup>125</sup> The Minister, Kevin Foster MP, was keen to stress that these examples are “non-exhaustive”.<sup>126</sup> He also told us that there would be “a second process after 30 June when we ... write again to encourage people to apply”.<sup>127</sup>
120. Immigration enforcement officers who encounter a person without settled status after the deadline who may have been eligible for settled status will provide the person with a written notice, giving them an opportunity to make a valid application within 28 days. During that period the person will be exempt from further immigration enforcement action.<sup>128</sup> The AIRE Centre warned that “protection against removal does not protect individuals from the raft of other Hostile Environment policies”, such as losing the right to work, rent, hold a bank account or claim benefits.<sup>129</sup> We note, though, that Government guidance on right-to-rent checks states that landlords should encourage tenants without status after 30 June 2021 to apply within the 28 day period—offering some protection against immediate loss of rights in this area at least.<sup>130</sup>

---

122 *Withdrawal Agreement*, Article 18

123 HM Government, ‘Apply to the EU Settlement Scheme (settled and pre-settled status)’ (2021): <https://www.gov.uk/settled-status-eu-citizens-families/eligibility> [accessed 14 July 2021]

124 House of Commons Library, EU Settlement Scheme, Library Note, [CLN 8584](#)

125 It should also be noted that some applicants are subject to different deadlines – for example, those who have limited leave to remain under another part of the immigration rules, or who cease to be exempt from immigration rule after 30 June 2021. For these individuals, the same “reasonable grounds” approach applies with respect to applications after their own, potentially later, deadlines. Home Office, *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members*

126 [Q 19](#) (Kevin Foster MP)

127 [Q 18](#) (Kevin Foster MP)

128 Home Office, *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members*

129 Written evidence from the AIRE Centre ([CIT0001](#))

130 Home Office, *Landlord’s guide to rent checks* (1 July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/994998/Landlords\\_guide\\_to\\_right\\_to\\_rent\\_checks.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994998/Landlords_guide_to_right_to_rent_checks.pdf) [accessed 14 July 2021]

121. Ambassador Vale de Almeida told us on 24 June that the position of late applicants was “maybe the most important” concern the EU had about the EUSS, although he added that the Minister had offered “good feedback, which I am sure will materialise ... that these citizens will be treated in a fair way”.<sup>131</sup>

*Issues with the Home Office guidance*

122. The new caseworker guidance featured prominently in the evidence we received. There was praise for the guidance in some quarters, with the IMA describing it as “pragmatic and inclusive”. Equally, there were also concerns and recommendations for improvement.

123. A number of witnesses were concerned that the “benefit of any doubt” approach was described as applying only “for the time being”. Kate Smart said that it was currently “unclear how long that [approach] might last”.<sup>132</sup> The AIRE Centre recommended that “the approach of giving late applicants the ‘benefit of the doubt’ should apply indefinitely”.<sup>133</sup>

124. Kevin Foster MP offered some reassurances: “If it was very obvious that someone was here in the early part of 2021 and stated they had been here from the very late part of 2020, we would be likely to give the person the benefit of the doubt on a more permanent basis.”<sup>134</sup> He gave the example of “a child aged five in care today whose authority did not apply for them. If at 18 they go for their first job... we would still regard that as a reasonable ground for a late application to the EUSS even though it is 13 years later”.<sup>135</sup>

125. The guidance states, on the other hand, that “in general”, the later an application is after the deadline, the harder it will be to argue that there were “reasonable grounds” for missing the deadline. The AIRE Centre said it was “unclear why such a general presumption needs to be imposed”.<sup>136</sup> In explanation, Kevin Foster highlighted the need to balance fair treatment of EU citizens against the possibility of the EUSS being a ‘back door’ for new arrivals: “The longer we move away from the deadline, the greater the chance that there are people who were not here before 31 December.”<sup>137</sup>

126. Witnesses stressed the need for consistent implementation. The IMA told us that it was not clear “how the Home Office will ensure consistency in decision-making when case workers have discretion”.<sup>138</sup> Kate Smart said the approach to late applications needed to be “joined up” across other public bodies: “It is all very well for the Home Office to say that it is taking a sympathetic approach, but unless that is translated across other government departments people will still fall into difficulty.”<sup>139</sup>

127. There were also concerns over the impact of the late application provisions on vulnerable groups. The EU Rights and Brexit Hub pointed to the relatively narrow allowances for pregnancy and maternity at or around the deadline,

---

131 Oral evidence taken before European Affairs Committee, inquiry on UK-EU relations, 24 June 2021 (Session 2021–22), [Q 8](#) (Ambassador Vale de Almeida)

132 [Q 5](#) (Kate Smart)

133 Written evidence from the AIRE Centre ([CIT0001](#))

134 [Q 19](#) (Kevin Foster MP)

135 [Q 18](#) (Kevin Foster MP)

136 Written evidence from the AIRE Centre ([CIT0001](#))

137 [Q 19](#) (Kevin Foster MP)

138 Written evidence from the Independent Monitoring Authority ([CIT0006](#))

139 [Q 5](#) (Kate Smart)

which “may” be considered reasonable grounds, but only “where a woman has a difficult child birth or where a new-born child is in need of medical treatment.”<sup>140</sup> The AIRE Centre noted that the deadline for applications on behalf of children born after 1 April 2021 was only three months from their date of birth, and recommended that this be increased to six months.<sup>141</sup>

128. The guidance also requires caseworkers to check the immigration history of victims of domestic abuse or modern slavery, even though there is no similar requirement for other vulnerable groups.<sup>142</sup> The EU Rights and Brexit Hub claimed that this disparity suggests “that victims should be treated with suspicion”.<sup>143</sup>
129. The AIRE Centre described measures to protect those who lack mental capacity, who may need someone to make a late application on their behalf, as “inadequate”. They warned in particular that although Home Office guidance permits applications to be made by third parties, “Organisations will be wary of making applications on behalf of people who lack capacity for fear of breaching data protection rules.”<sup>144</sup>
130. In evidence submitted ahead of the 30 June 2021 deadline, the IMA pointed out that the guidance was drafted to assist caseworkers rather than late applicants themselves, arguing that “easy to follow guidance designed specifically for potential applicants is required urgently”.<sup>145</sup> Since the deadline, though, the landing page for applying to the EUSS online has been amended to include some guidance aimed at late applicants, setting out examples of reasonable grounds as well as the EUSS’ eligibility requirements.<sup>146</sup>
131. **Citizens’ basic rights under the Withdrawal Agreement should not be affected by virtue of simply missing the June deadline. If the Government does not meet its obligations under Article 18 of the Withdrawal Agreement, we fear that this could lead to unnecessary and stressful litigation. We will continue to monitor this issue going forward.**
132. **We welcome the Government’s confirmation that it will continue to look for reasons to grant status rather than reasons to refuse when processing late applicants, and will be giving late applicants “the benefit of any doubt.” We also welcome that the online system for EUSS applications remains open; it should remain so for as long as late applications are possible.**
133. **We are concerned, however, that current guidance suggests the “benefit of any doubt” approach may only be temporary. We call on the Government to provide greater clarity on how long this approach will last, and to consider a commitment to continuing it on a longer-term basis. The “benefit of any doubt” approach is yet to be tested, and we will keep these matters under close scrutiny.**

---

140 Written evidence from EU Rights and Brexit Hub (CIT0005), see also Home Office, *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members*.

141 Written evidence from the AIRE Centre (CIT0001)

142 Home Office, *EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members*

143 Written evidence from EU Rights and Brexit Hub (CIT0005)

144 Written evidence from the AIRE Centre (CIT0001)

145 Written evidence from the Independent Monitoring Authority (CIT0006)

146 HM Government, ‘Apply to the EU Settlement Scheme (settled and pre-settled status)’ (2021): <https://www.gov.uk/settled-status-eu-citizens-families/eligibility> [accessed 14 July 2021]

134. **Although the current guidance on handling late applications is inclusive and comprehensive, the Government will need to ensure that late applications are handled consistently, not only by Home Office caseworkers, but also by other Government departments and public bodies.**
135. **We are concerned by the general presumption in caseworker guidance that the longer an application is after the deadline, the less likely it is to meet the “reasonable grounds” criteria. We call on the Home Office to explain the rationale for this presumption.**
136. **We also note the concerns expressed over the guidance on late applicants from pregnant and recent mothers, as well as new-born babies, and invite the Government to look again at these issues. In addition, we are deeply concerned that Government guidance appears to subject victims of modern slavery and domestic abuse to more intrusive immigration history checks than other groups. We call upon the Government to respond to these concerns.**

*The need for a ‘safety net’*

137. One of the biggest problems our witnesses identified with the late application policy was that many rights—including the right to work, rent, or claim benefits—are only conferred when and if status is granted, rather than from the point of a late application. The EU Rights and Brexit Hub said that this leaves individuals with a “status gap”, during which they may be exposed to “hostile environment” policies.<sup>147</sup>
138. This “status gap” differs from issue to issue, with some public bodies taking a more generous approach. The right to free healthcare, for example, is conferred from the point of application. However, Monique Hawkins warned that this still leaves a potential gap between the 30 June deadline and the date when an individual applies. During this interim period, EU citizens could incur NHS charges, which are not subsequently written off.<sup>148</sup>
139. Witnesses therefore sought a legislative “safety net” to prevent a loss of rights for those who miss the deadline. Monique Hawkins recommended that the Government “grant people rights from the point of application, rather than from grant of status”, and that late applicants “should also have an intervening period of unlawfulness later made lawful”.<sup>149</sup> In written evidence, the 3million argued that “to not grant rights pending a decision is in breach of the Withdrawal Agreement” under Article 18(3).<sup>150</sup>
140. Other witnesses stressed that policy and guidance should be buttressed by additional legal protections to prevent an arbitrary and inconsistent approach to late applications. The EU Rights and Brexit Hub argued that “The lack of codification is key because ultimately welfare officers, landlords and employers comply with rules and regulations, not political sentiment or intent.”<sup>151</sup> The AIRE Centre also argued that the generous treatment of those making late applications should be enshrined in law: “[The] guidance can be subject to regular change and revision ... A non-exhaustive definition

---

147 Written evidence from the EU Rights and Brexit Hub ([CIT0005](#))

148 [QQ 2, 5](#) (Monique Hawkins)

149 [QQ 5, 8](#) (Monique Hawkins)

150 Written evidence from the 3million ([CIT0010](#))

151 Written evidence from EU Rights and Brexit Hub ([CIT0005](#))

of 'reasonable grounds' to make a late application should be incorporated into Appendix EU [of the Immigration Rules]."<sup>152</sup>

141. In addition, Fiona Costello recommended additional support for those making late applications, as "there are significant advice deserts throughout the UK [and] immigration advice is no exception".<sup>153</sup> Kate Smart agreed: "There need to be helplines, resolution centres and voluntary sector advice services in place for years as these situations start to unfold."<sup>154</sup>
142. Kevin Foster MP told us that the Home Office will "have protocols in place... to accelerate decisions where we may need to make a quick decision", for example if a late applicant needs to access health or care services or take up a job.<sup>155</sup> In more general terms, Lord Frost also confirmed that the Government would be "extremely understanding" of late applications.<sup>156</sup>
143. **The Government's assurances that it will adopt a "generous" approach to late applications is not yet underpinned by a corresponding legal safety net for those who have missed the deadline. An individual who applies late could be left in legal limbo while they await a Home Office decision, potentially for months.**
144. **It is not too late for the Government to address this issue, and we have heard many specific suggestions from witnesses, including proposals to grant late applicants rights provisionally from the point when they apply, rather than from when status is granted, or to write off liabilities rising from an "interim period of unlawfulness" between the 30 June deadline and the point of application. We call on the Government to set out how it intends to resolve the legal uncertainty facing late applicants, so as to give greater certainty to vulnerable individuals.**
145. **The Government should also ensure funding and support for helplines and resolution centres are in place to support those making late applications over the long-term.**
146. **We recommend that the Home Office also continues to provide long-term statistical updates on applications to the EU Settlement Scheme until at least June 2026, when the final awards of pre-settled status for on-time applications expire. This will ensure transparency regarding the number of late applications, and thereby facilitate continued parliamentary scrutiny of the Scheme.**

### **Proving status: the lack of a physical document**

147. Holders of settled or pre-settled status may need to prove their status in the future, for example to immigration enforcement, employers and landlords. Proving status under the EUSS is a digital-only process, and EU citizens will not receive a physical document as proof of their status. Proof of status in digital form is permitted under the Withdrawal Agreement.<sup>157</sup>

---

152 Written evidence from the AIRE Centre ([CIT0001](#))

153 [Q 8](#) (Fiona Costello)

154 [Q 3](#) (Kate Smart)

155 [Q 19](#) (Kevin Foster MP)

156 Oral evidence taken before the European Affairs Committee, inquiry on UK-EU relations, 18 May 2021 (Session 2021–22), [Q 6](#) (Lord Frost)

157 Written evidence from the Independent Monitoring Authority ([CIT0006](#)) and [Withdrawal Agreement](#), Article 18(1)

148. The process for proving one's digital settled status was described to us as a "multiple-stage process".<sup>158</sup> New Europeans UK explained that applicants would need to provide the details of the identity document they used when they applied, the phone number or email address they used when they applied, and their date of birth.<sup>159</sup> Monique Hawkins drew a contrast between a typical digital document such as an airline boarding pass, which can be printed out, and the digital EUSS status:
- "Imagine a locked box inside a room in the Home Office. First, you have to find your way to that room. Secondly, you have to be let into the room. Thirdly, you need a key to get into the box. Then, the key needs to work. All those things relate to the complicated steps you need to access digital status."
149. The lack of a physical document proving status under the EUSS has prompted considerable criticism. In a February 2019 letter to the Home Secretary, the former EU Justice Sub-Committee said that the lack of a document would "disadvantage those without access to online technology", and concluded that "the Home Office must provide physical documentation".<sup>160</sup> Both the Home Affairs Committee and the former Future Relationship with the EU Committee in the House of Commons have also recommended the option of a physical document.<sup>161</sup> The lack of such a document was also cited as a reason for low confidence in rights being upheld in a recent survey of EU citizens by the IMA.<sup>162</sup>
150. The Government has responded that the digital-only EUSS is part of a wider policy of moving the UK immigration system to "digital by default".<sup>163</sup> In his response to the EU Justice Sub-Committee's letter in 2019, the then Home Secretary Rt Hon Sajid Javid MP said that physical documents could be lost or stolen, and that a digital system was "simpler, safer and more convenient".<sup>164</sup> Nonetheless, the lack of a physical document continues to be raised as a key concern by citizens' rights campaigners and front-line support organisations.
151. A commonly cited concern is that the digital-only status will exclude vulnerable groups. New Europeans UK said that it would be "particularly problematic for older people", while the EU Rights and Brexit Hub said

---

158 Q 3 (Kate Smart)

159 Written evidence from New Europeans UK (CIT0009)

160 Letter from Baroness Kennedy of The Shaws, Chair of the EU Justice Sub-Committee, to Rt Hon Sajid Javid MP, Home Secretary, 27 February 2019: <https://www.parliament.uk/globalassets/documents/lords-committees/eu-justice-subcommittee/CWM/HKtoSJ-SettledStatus-260219.pdf> [accessed 14 July 2021]

161 Home Affairs Committee, *EU Settlement Scheme* (Fifteenth Report, Session 2017–19, HC 1945), para 15, see also Committee on the Future Relationship with the EU, *Implementing the Withdrawal Agreement: citizens' rights* (Second Report, Session 2019–21, HC 849), para 83

162 Independent Monitoring Authority, *European citizens' concerns after Brexit: Report on the IMA's first survey* (May 2021): <https://s3-eu-west-2.amazonaws.com/jotwpublic-prod-storage-1cxo1dnrmkg14/uploads/sites/4/2021/05/IMA-report-European-citizens-concerns-after-Brexit-1.pdf> [accessed 14 July 2021]

163 Letter from Kevin Foster MP, Parliamentary Under-Secretary of State, Home Office to Monique Hawkins, the3million, 19 April 2021: [https://249e1c0f-a385-4490-bfe6-875269a8d3d5.filesusr.com/ugd/cd54e3\\_12b5aa7c27624d5dafef0672111eceb7.pdf](https://249e1c0f-a385-4490-bfe6-875269a8d3d5.filesusr.com/ugd/cd54e3_12b5aa7c27624d5dafef0672111eceb7.pdf) [accessed 14 July 2021]

164 Letter from Rt Hon Sajid Javid MP, Home Secretary, to Baroness Kennedy of The Shaws, Chair of EU Justice Sub-Committee, 20 March 2019: [https://www.parliament.uk/globalassets/documents/lords-committees/eu-justice-subcommittee/CWM/SJ-LettertoHK-EUSS\\_20-03-19.pdf](https://www.parliament.uk/globalassets/documents/lords-committees/eu-justice-subcommittee/CWM/SJ-LettertoHK-EUSS_20-03-19.pdf) [accessed 14 July 2021]

it “disproportionately disadvantages the socially, economically and technologically excluded”.<sup>165</sup>

152. EU citizens will also need to have access to the contact details with which the original application was made. The EU Rights and Brexit Hub said this was “particularly problematic for those who required support to make an application in the first place”, for example by using someone else’s contact details.<sup>166</sup> The AIRE Centre agreed:

“The Home Office is placing an indefinite onus on the applicant to have digital skills. For vulnerable applicants without digital skills, this means that the Home Office is making them indefinitely reliant on another person with digital skills. This has obvious issues around independence, potential abuse/exploitation, and where the relationship no longer exists for whatever reason.”<sup>167</sup>

153. We also heard concerns that the complexity of proving digital status would “look suspicious to the person on the receiving end” and that this could lead to discrimination against EU citizens.<sup>168</sup> The EU Rights and Brexit Hub described a “risk of user error from landlords or employers who, when threatened with legal penalties for non-compliance with immigration regulation, will err on the side of caution when recruiting employees and choosing tenants”.<sup>169</sup> They added that they were “already seeing cases ... where EU citizens are being denied Universal Credit due to the barriers created by the digital status checks”. In one case this had led to an EEA national with settled status not receiving Universal Credit for over three months, and becoming reliant on food banks.<sup>170</sup>
154. Many of our witnesses called on the Government to address these issues by changing tack and issuing physical proof of status, either to all EU citizens or for specific groups. Monique Hawkins said the Government’s proposals for potential COVID-19 status certificates, which involve “a document with a secure QR code that is on your phone, but you can also print it” could be repeated for the EUSS.<sup>171</sup> Other witnesses suggested that a physical proof of status be issued either to those who are “disproportionately disadvantaged” by the current policy (EU Rights and Brexit Hub)<sup>172</sup>, or on request (the AIRE Centre).<sup>173</sup>
155. The Minister, Kevin Foster MP, confirmed that “we do not plan to issue physical documents”. He highlighted that there were “analogue fallbacks” in the form of resolution centres, which individuals could ring, and reiterated that the general direction of immigration policy is towards a digital system and that physical documents could be lost or stolen. The Minister also rejected comparisons to the Windrush scandal, which he argued had been caused by the lack of a “centralised record”, rather than the lack of a physical

---

165 Written evidence from New Europeans UK ([CIT0009](#)) and written evidence from EU Rights and Brexit Hub ([CIT0005](#)). See also written evidence from the AIRE Centre ([CIT0001](#)).

166 Written evidence from EU Rights and Brexit Hub ([CIT0005](#)) and written evidence from New Europeans UK ([CIT0009](#))

167 Written evidence from the AIRE Centre ([CIT0001](#))

168 [Q 3](#) (Kate Smart)

169 Written evidence from EU Rights and Brexit Hub ([CIT0005](#)) and written evidence from the AIRE Centre ([CIT0001](#))

170 Written evidence from EU Rights and Brexit Hub ([CIT0005](#))

171 [Q 3](#) (Monique Hawkins)

172 Written evidence from EU Rights and Brexit Hub ([CIT0005](#))

173 Written evidence from the AIRE Centre ([CIT0001](#))

document.<sup>174</sup> The Home Office has also produced guidance for EU citizens on viewing and proving their digital status.<sup>175</sup>

156. In the absence of physical status, witnesses sought action to inform relevant authorities of the digital status system. Kate Smart suggested “some sort of mass information programme to inform all the authorities, landlords, employers and the general public”.<sup>176</sup> The IMA said it was “imperative” that “clear guidance is provided to those who will examine digital proof”, while the EU Rights and Brexit Hub called for “extensive training” for benefits officers, landlords and employers.<sup>177</sup> There are signs that the Government has begun to take action in this area: existing guidance to employers and to landlords highlights that EUSS holders will be proving their rights digitally.<sup>178</sup>
157. **While we note the advantages the Government sees in a digital-only system, we nevertheless regret that it has persisted with this approach in respect of the EU Settlement Scheme. It has done so despite repeated concerns raised by campaigners, support organisations, and the views of parliamentary committees of both Houses.**
158. **The lack of a physical document places an onus on EU citizens to have digital skills, and puts predominantly vulnerable individuals who are digitally excluded or required support when they submitted their original application at risk of dependency and exploitation. There is a risk that the difficulties EU citizens may face in proving their rights will undermine the Government’s considerable success in ensuring millions of EU citizens secured their status in the first place.**
159. **We strongly recommend that the Government offer holders of settled or pre-settled status the additional option of requesting physical documents, which would complement rather than replace their existing digital status. This could draw on the precedent of COVID-19 status certificates, and would be of particular benefit to those currently disadvantaged by digital-only status.**
160. **In parallel, we call on the Government to launch a major communications and training campaign to ensure that all relevant public and private sector authorities—including Border Force, welfare officers, landlords and employers—are aware of how EU citizens will be proving their status. This should build on the existing guidance to employers and landlords, which we welcome.**

---

174 [Q 22](#) (Kevin Foster MP)

175 Home Office, ‘Your Immigration status: an introduction for EU, EEA and Swiss citizens’ (1 July 2021): <https://www.gov.uk/government/publications/view-and-prove-your-immigration-status-visa/your-immigration-status-an-introduction-for-eu-eea-and-swiss-citizens-accessible-version#where-we-provide-automatic-access-to-your-immigration-status> [accessed 14 July 2021]

176 [Q 3](#) (Kate Smart)

177 Written evidence from the Independent Monitoring Authority ([CIT0006](#)) and written evidence from EU Rights and Brexit Hub ([CIT0005](#)).

178 Home Office, *Landlord’s guide to rent checks* (1 July 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/994998/Landlords\\_guide\\_to\\_right\\_to\\_rent\\_checks.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994998/Landlords_guide_to_right_to_rent_checks.pdf) [accessed 14 July 2021] and Home Office, *EU Settlement Scheme: introduction for employers* (24 June 2021): <https://www.gov.uk/government/publications/eu-settlement-scheme-introduction-for-employers/eu-settlement-scheme-introduction-for-employers> [accessed 14 July 2021]

### Pre-settled status

161. EU citizens who have lived in the UK for fewer than five continuous years are given pre-settled status, which gives them a further five years' temporary leave to remain in the UK. Those with pre-settled status can apply to switch to full settled status once they reach five continuous years living in the UK, rather than needing to wait until their pre-settled status expires. This means they are subject to two separate five-year deadlines: for example, an EU citizen who moved to the UK in January 2017 and secured pre-settled status in October 2019 will be able to apply for settled status from January 2022, and will need to do so before their pre-settled status expires in October 2024.
162. The five continuous years test generally means that in order to qualify for settled status, the applicant must not have been absent from the UK for more than 6 months in total in any given 12-month period. Early on in our inquiry, we heard concerns that the pandemic might cause many EU citizens to have “absences that were much longer than planned”, which could disqualify them from upgrading to settled status.<sup>179</sup>
163. On 10 June, however, the Home Office issued new guidance allowing applicants to be absent for up to 12 months without breaking their continuous residence, if they can provide evidence that this was for any reason related to COVID-19. Absences of longer than 12 months are also permitted if COVID-19 prevented the applicant from returning to the UK within 12 months.<sup>180</sup>
164. **We welcome the new COVID-19 exemption to the rules around permitted absences; without this, an unknown number of EU citizens could have rendered themselves ineligible for full settled status by leaving or being prevented from travelling to the UK during the pandemic. We urge the Government to publicise these changes as widely as possible.**

### *Switching from pre-settled status to settled status*

165. As of the 30 June 2021 deadline there had been 2,329,400 successful grants of pre-settled status, 43% of all concluded applications to the EUSS.<sup>181</sup> As of 31 March 2021, 147,660 of these people had already moved from pre-settled status to settled status, suggesting that just over 2 million people with pre-settled status will need to switch to settled status if they wish to stay in the UK.<sup>182</sup>
166. Some of these 2 million will not wish to switch to settled status—though it is unclear exactly how many. As Madeleine Sumption told us:

“Based on currently available data, it will not be possible to know which pre-settled status holders are still in the UK, and thus what share

---

179 Q 7 (Monique Hawkins)

180 Home Office, ‘Coronavirus (COVID-19): EU Settlement Scheme — guidance for applicants’ (15 December 2020): <https://www.gov.uk/guidance/coronavirus-covid-19-eu-settlement-scheme-guidance-for-applicants> [accessed 14 July 2021]

181 Home Office, ‘EU Settlement Scheme statistics’ (30 May 2019): <https://www.gov.uk/government/collections/eu-settlement-scheme-statistics> [accessed 14 July 2021]

182 Home Office, ‘EU settlement Scheme quarterly statistics, March 2021’ (1 June 2021): <https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-march-2021/eu-settlement-scheme-quarterly-statistics-march-2021#concluded-applications-to-the-eu-settlement-scheme> [accessed 14 July 2021] and written evidence from the Migration Observatory (CIT0007)

successfully upgrade to settled status in practice. This is because many of the roughly 2 million people with pre-settled status are likely to leave the UK permanently or will already have done so.”<sup>183</sup>

167. The onus is on pre-settled status holders to apply for full settled status, and concerns have been raised that the absence of a systematic scheme to move people across could lead to a loss of rights. In its February 2019 letter to the Home Secretary, the EU Justice Sub-Committee concluded:

“Without a scheme to move people from pre-settled status to settled status there is a serious risk of simply postponing rejections of people’s applications for settlement rights, undermining the Government’s aim in creating pre-settled status in the first place.”<sup>184</sup>

168. The EU has also raised concerns about this matter. At the June 2021 meeting of the Specialised Committee on Citizens’ Rights, the EU “expressed concerns about the fact that EU citizens lose their residence status if they do not apply in time from pre-settled to settled status”.<sup>185</sup> The 3 million went further, arguing that the Withdrawal Agreement “does not allow for loss of [Agreement] rights (once obtained and established by being granted pre-settled status) for merely the administrative error of not applying for a new settled status”.<sup>186</sup>
169. Madeleine Sumption told us that “for certain groups of people ... the challenge will be greater the second time around”, because “more evidence is required for a grant of settled status than pre-settled status”.<sup>187</sup> The EU Rights and Brexit Hub added that this higher evidential bar had “led to some receiving pre-settled status incorrectly” in the first place.<sup>188</sup>
170. Arguably the biggest challenge the Government faces is communicating individual deadlines for pre-settled status. The first grants of pre-settled status, given under the initial test phase of the EUSS in August 2018, will expire in August 2023.<sup>189</sup> As Monique Hawkins told us, this means that the 30 June deadline was just the first of “millions of individual deadlines”.<sup>190</sup> Fiona Costello and Madeleine Sumption both highlighted that communicating the original 30 June 2021 deadline had been “easier in theory”, as “all applicants faced the same deadline”, whereas the next phase will involve “personal deadlines for different people”.<sup>191</sup>
171. Kevin Foster MP said that the Government would issue “automated reminders” to individual citizens ahead of their deadlines for pre-settled

---

183 Written evidence from the Migration Observatory (CIT0007)

184 Letter from Baroness Kennedy of The Shaws, Chair of the EU Justice Sub-Committee, to Rt Hon Sajid Javid MP, Home Secretary, 27 February 2019: <https://www.parliament.uk/globalassets/documents/lords-committees/eu-justicesubcommittee/CWM/HKtoSJ-SettledStatus-260219.pdf> [accessed 14 July 2021]

185 FCDO, Citizens’ Rights Specialised Committee meeting: joint statement (17 June 2021): <https://www.gov.uk/government/news/citizens-rights-specialised-committee-meeting-17june-2021-joint-statement> [accessed 14 July 2021]

186 Written evidence from the 3 million (CIT0010)

187 Written evidence from the Migration Observatory (CIT0007)

188 Written evidence from the EU Rights and Brexit Hub (CIT0005)

189 Letter from Baroness Kennedy of the Shaws, Chair of the EU Justice Sub-Committee, to Rt Hon Sajid Javid, Home Secretary, 27 February 2019: <https://www.parliament.uk/globalassets/documents/lords-committees/eu-justicesubcommittee/CWM/HKtoSJ-SettledStatus-260219.pdf> [accessed 14 July 2021]

190 Q 4 (Monique Hawkins)

191 Q 7 (Fiona Costello) and written evidence from the Migration Observatory (CIT0007)

status.<sup>192</sup> The IMA, however, warned that this “may not be wholly effective where citizens have not kept their details up to date, do not realise they need to switch or miss their opportunity”.<sup>193</sup> On this issue of contact details, the Minister urged individuals to keep their details up to date, and added that “in most cases we normally have an email, phone number and address, so in most cases at least one of those will still be relevant in a five-year period”.<sup>194</sup>

172. Several witnesses recommended additional support in this area. Fiona Costello highlighted that holders of pre-settled status are “likely to be more vulnerable” and stressed that “using the [community] networks that are already there to communicate with groups” was “key to getting multilingual messages out there about the deadline”.<sup>195</sup> Kate Smart said that “some sort of helpline and resolution recourse will be needed for years to come” to support those switching from pre-settled status to settled status.<sup>196</sup>
173. As with those who missed the 30 June 2021 deadline, those who fail to switch from pre-settled status to settled status on time risk losing their rights. The Minister told us that “exactly the same list of reasonable grounds” for late applications will apply to holders of pre-settled status who miss their personal deadline, as they did vis-à-vis the 30 June.<sup>197</sup> We note, though, that the current approach of giving applicants the “benefit of any doubt” (discussed in paragraphs 118–124), is described as temporary in current Home Office guidance.
174. **The Government successfully ensured that over 5.4 million eligible citizens applied under the EUSS ahead of the 30 June 2021 deadline. But over 2 million of these were granted time-limited rights in the form of pre-settled status, placing the onus squarely upon them to preserve their rights by successfully applying in due course for settled status. If they do not, they may lose their rights in the coming years.**
175. **Replicating the initial success of the Settlement Scheme will be more difficult in the next phase; rather than one deadline for millions of people, there are now many individual deadlines. We welcome the Home Office’s plans to send individual reminders, but this relies on EU citizens keeping their contact details up to date. The Government should therefore make full use of community networks, and maintain helplines and resolution centres, to support holders of pre-settled status in applying on time.**
176. **Holders of pre-settled status who miss their deadline for applying for settled status can make late applications if they have reasonable grounds to do so. The Government has undertaken, for the time being, to give late applicants the “benefit of any doubt”. But as the first of these deadlines are not until August 2023, we are concerned that pre-settled status holders are vulnerable to a reversal of the temporary and non-binding “benefit of any doubt” policy.**
177. **There is a lack of data on how many holders of pre-settled status are still residing in the UK, and uncertainty over how many will want or**

---

192 [Q 24](#) (Kevin Foster MP)

193 Written evidence from the Independent Monitoring Authority ([CIT0006](#))

194 [Q 24](#) (Kevin Foster MP)

195 [Q 7](#) (Fiona Costello)

196 [Q 8](#) (Kate Smart)

197 [Q 24](#) (Kevin Foster MP)

**need to apply for full settled status in the future. This will make it difficult to assess the Government's success in ensuring people make the switch to settled status on time.**

*Pre-settled status and welfare rights*

178. Unlike settled status, pre-settled status does not automatically qualify the holder to claim benefits. Holders of pre-settled status wishing to claim benefits therefore have to demonstrate their right to reside through other means, such as the 2016 EEA Regulations.<sup>198</sup>
179. The criteria in the 2016 EEA Regulations are narrower, however, and could exclude certain vulnerable groups. The EU Rights and Brexit Hub gave the examples of long-term residents, those with caring responsibilities, and those with disabilities, adding: “Denial of benefit support is particularly concerning as these groups, and vulnerable citizens more generally, are also more likely to be dependent on this support.”<sup>199</sup>
180. We also heard evidence of citizens being wrongly excluded from benefits or social housing. The EU Rights and Brexit Hub cited an EEA national with pre-settled status who was removed from the social housing waiting list due to her lack of full settled status, with no attempt by the local authority to establish whether she had a qualifying right to reside under the EEA Regulations (which, as it transpired, she had).<sup>200</sup>
181. The lack of automatic welfare rights under pre-settled status is currently subject to two separate legal challenges, one before the Supreme Court<sup>201</sup> and the other before the CJEU.<sup>202</sup>
- 182. We note that the issue of pre-settled status and access to welfare rights is currently the subject of two separate legal challenges. We await with interest the outcome of these cases.**

---

198 Written evidence from the EU Rights and Brexit Hub (CIT0005)

199 *Ibid.*

200 *Ibid.*

201 In *Fratilla vs Secretary of State for Work and Pensions*, the Court of Appeal of England and Wales found in December 2020 that holders of pre-settled status were entitled to equal treatment when claiming benefits, and that UK policy was discriminatory and, while the UK remained in the transition period, a breach of Article 18 TFEU. Although this refers to a breach of EU law which no longer applies post-transition, the definition of discrimination on grounds of nationality under Article 18 TFEU is preserved under Article 12 of the Withdrawal Agreement. The case is now before the Supreme Court. Department for Work and Pensions, ‘A5/2021: Pre-settled status - effect of the Court of Appeal decision in the Fratila case’ (27 May 2021): <https://www.gov.uk/government/publications/housing-benefit-adjudication-circulars-2021/a52021-pre-settled-status-effect-of-the-court-of-appeal-decision-in-the-fratila-case> [accessed 14 July 2021]

202 *CG vs Department for Communities in Northern Ireland*, currently before the CJEU, is substantively similar to the *Fratilla* case. The Advocate General recently issued an opinion on the case, finding that a situation where “an economically inactive national of another Member State ... is unable to receive social assistance solely because of the nature of his or her right of residence constitutes indirect discrimination on the ground of nationality”. As the CJEU case predated the end of the transition period, its findings would be binding on the UK. Court of Justice of the European Union, *Advocate General Richard de la Tour: The grant without conditions as to resources of a right of residence by a Member State to Union citizens cannot have the effect of systematically excluding them from social assistance granted to nationals of that State without constituting discrimination based on nationality* (24 June 2021) C-709/20: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-06/cp210115en.pdf> [accessed 14 July 2021]

## CHAPTER 4: UK CITIZENS IN THE EU

---

183. As we have discussed above (see paragraphs 15–20), EU Member States have adopted a mixture of declaratory and constitutive systems for British citizens seeking to access their rights under the Withdrawal Agreement. An overview of progress in implementing these systems is contained in the Fourth Joint Report on the Implementation of Residence Rights under Part Two of the Withdrawal Agreement (published 29 June 2021), from the Specialised Committee on Citizens' Rights.<sup>203</sup> As we have earlier described (see paragraph 36), the European Commission performs the role of monitoring compliance in Member States. In addition to receiving complaints about alleged compliance breaches, the Commission also produces its own annual report alongside that produced by the Independent Monitoring Authority in the UK.
184. Jane Golding of British in Europe, the largest coalition group of British citizens living and working in Europe, gave the following summary of the situation: “Implementation is progressing better than expected in some countries—for example, in France where the system seems to be working very well—and less well in other countries such as Italy and Portugal.”<sup>204</sup> She also expressed concern about the delays UK citizens were experiencing in some countries:
- “A general theme in many countries is the length of time it is taking to process applications—of course, COVID is playing a part there—and for either residence cards in declaratory countries or residence permits in constitutive countries to be issued. It is rising in declaratory countries such as Portugal where our latest information is that, so far, no cards have been issued. In Italy, which is declaratory, it has been slow, but in constitutive countries such as Denmark, where implementation generally is going quite well, the issue of cards is slow.”<sup>205</sup>
185. British in Europe (BiE) also provided summaries of the rollouts of the declaratory and constitutive systems in many of the Member States.<sup>206</sup> The organisation highlighted difficulties in many countries, including in Italy, where, among other problems, “The government failed to issue a clear authoritative statement that ... we do not need a residence permit.” In Germany, BiE told us:
- “A proportion of the many highly-integrated UK citizens in Germany are likely not aware of what they may need to do to secure their status. This group may have minimal or zero contact with other UK citizens in Germany and it is highly unlikely that German members of their family or circle of friends will have any awareness as there has been little or no coverage in the German media.”<sup>207</sup>
186. Turning to other EU Member States with large populations of UK citizens, BiE highlighted problems in Spain relating to “widespread deviation at a

---

203 European Commission, *Fourth Joint Report on the Implementation of Residence Rights under Part Two of the Withdrawal Agreement from the Specialised Committee on Citizens' Rights* (June 2021): [https://ec.europa.eu/info/sites/default/files/fourth\\_report\\_draft\\_final\\_version\\_for\\_publication\\_en.pdf](https://ec.europa.eu/info/sites/default/files/fourth_report_draft_final_version_for_publication_en.pdf) [accessed 14 July 2021]

204 Q 9

205 *Ibid.*

206 Written evidence from British in Europe (CIT0011)

207 *Ibid.*

local level from the government's position" concerning what residence cards UK citizens should have,<sup>208</sup> and France, where issues included "long delays in dealing with applications at préfecture level" and a "total lack of publicity from [the] Ministry of the Interior".<sup>209</sup>

187. Not all UK citizens who spend time living in the EU are covered by the Withdrawal Agreement. A group representing British multi-country residents explained that UK citizens who are mainly resident in the UK, but who also own homes in EU Member States, had "largely been overlooked and left unprotected by the Withdrawal Agreement".<sup>210</sup> As free movement had now ended, and visa-free travel under the Agreement was only permitted for a maximum of 90 days, second home-owners had the choice of either "registering (or retaining their current registration) as a resident and hope the host country allows them to keep using their home freely ... or use their home as a tourist and comply with the requirement to be absent for specific periods in between visits (90 days in a rolling 180)". In short, second home-owners tend to spend too much time in Europe to qualify as tourists, but not enough to qualify as residents.

### Calculating UK populations in EU Member States

188. The numbers of UK citizens resident in the EU27 vary considerably between Member States. For example, there are an estimated 359,000 British citizens living in Spain and 148,300 in France, but fewer than 1,000 in Lithuania, Croatia or Slovenia.<sup>211</sup> As the House of Commons Committee on the Future Relationship with the European Union observed, "The size of the population in each Member State is relevant. Larger populations may present a greater challenge in terms of the administration of any scheme in limited time."<sup>212</sup>
189. Our witnesses were therefore concerned that the numbers of UK citizens in certain EU countries were not being properly calculated. Dr Michaela Benson, of the BrExpats Research Project, explained the problems were caused by the way statistical data about UK citizens in the EU were being gathered:

"Some member states draw their statistics about the number of resident British citizens from registration data while others draw theirs from census data. Registration data will exclude anyone not registered (for residence as EU citizens.) The accuracy of this measure will depend on the extent to which (a) registration is compulsory and (b) access to services, employment, and welfare rely upon this. In other words, there are likely shortfalls in the numbers of people registered versus the number of British citizens living in a member state before Brexit."<sup>213</sup>

190. Dr Benson continued:

"In states where this was compulsory and where access to other services is contingent on registration, a greater proportion of the British population are likely to be registered (e.g. Germany, The Netherlands). While in those countries where registration was not compulsory (e.g. Spain)

---

208 Written evidence from British in Europe (CIT0011)

209 *Ibid.*

210 Written evidence from British multi-country residents affected by Brexit (CIT0003)

211 Committee on the Future Relationship with the EU, *Implementing the Withdrawal Agreement: citizens' rights* (Second Report, Session 2019–21, HC 849)

212 *Ibid.*

213 Written evidence from Dr Michaela Benson (CIT0008)

and where access to services was not contingent upon this, significant proportions of the population will be unregistered (by some estimates, up to 30%).”<sup>214</sup>

191. Sue Wilson, Chair of Bremain in Spain, a pro-EU campaign group which supports British migrants living in Spain and across Europe, explained the uncertainty over the numbers of UK citizens in Spain:

“In Spain, the population currently is about 380,000. It is the largest population in the EU of British citizens. The figure has gone up by 90,000 over the last five years. In 2020 alone, it went up by 20,000, so lots more people are becoming registered, but we do not know what the real numbers are. A long-standing issue in Spain is that nobody has ever really known the true number of Brits living there; it has always been assumed to be two or three times the official number, so in theory it is up to 1 million people.”<sup>215</sup>

192. Dr Benson told us of similar uncertainties relating to the UK population in France:

“France is slightly unusual even among constitutive systems because ... the statistics we had were drawn from census data and not registration data, which effectively means that there is not necessarily a good understanding of where those people are located in France. None of these statistics will count the hard-to-reach populations; they will not be able to include homeless populations, looked-after children and anyone living under the radar. There are people who have been living their lives in France and have not had to be particularly bothered about making themselves known to the authorities, because they have been able to live quite easily without doing so. That is a real issue.”<sup>216</sup>

193. **It is clear there are problems in identifying accurately how many UK citizens are resident in some Member States and where exactly they live. We urge the EU Commission and the UK Government to do all that they can, when engaging with Member States on citizens’ rights, to ensure that host countries do not miss sections of their own UK national populations. The UK government should also engage with the EU Commission as the monitoring authority within the EU. This engagement should continue after the expiry of constitutive Member States’ deadlines: missed UK citizens may only be identified at this time, with serious consequences for the individuals concerned.**

### **Combining statuses with Withdrawal Agreement rights**

194. UK citizens with rights under the Agreement can also hold other rights at the same time. As BiE noted, such rights can include status as a long-term EU resident, which provides mobility rights.<sup>217</sup> There are also dual nationals, who having “exercised their free movement rights as a British citizen when moving to the country where they are living are still covered

---

214 *Ibid.*

215 [Q 13](#)

216 [Q 12](#)

217 Written evidence from British in Europe ([CIT0011](#))

by the WA [Withdrawal Agreement]". The organisation highlighted the importance for many UK citizens of being able to do this:

"For many, combining statuses is essential. For example, a dual national may need the enhanced WA provisions on family reunification or recognition of qualifications. A nondual citizen, on the other hand, may wish to obtain EU long term residence in order to have mobility rights whereas the WA provides none."<sup>218</sup>

195. But BiE also explained that many UK citizens face difficulties proving their multiple statuses:

"In many Member States there is no satisfactory means of proving one's right to concurrent statuses in one or both categories. There are particular concerns for dual nationals in constitutive countries where they are not able to apply for the status and yet the status is only granted on application."<sup>219</sup>

### Declaratory systems

196. The UK Government's 'explainer' on citizens' rights under the Withdrawal Agreement describes declaratory systems in the following terms:<sup>220</sup>

"In a declaratory residence system, a residence status is given directly to those in scope of the Withdrawal Agreement by operation of the law and is not dependent upon completing administrative procedures. A decision by the host state is not required to have status under the Withdrawal Agreement. However, those eligible for status have the right to receive a residence document confirming this and there may be an obligation under national law to register for a residence document, which evidences the status."

197. Data on applications received from UK residents in EU Member States with declaratory systems, published in the Fourth Joint Report of the Specialised Committee on Citizens' Rights in June 2021, are given in Table 1.

---

218 Written evidence from British in Europe (CIT0011)

219 *Ibid.*

220 FCDO, *Explainer for part two (citizens' rights) of the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union* (16 October 2020): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/927349/explainer-for-part-2-citizens-rights-of-agreement-on-withdrawal-uk-ni-from-eu.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927349/explainer-for-part-2-citizens-rights-of-agreement-on-withdrawal-uk-ni-from-eu.pdf) [accessed 14 July 2021]

**Table 1: Applications from UK citizens for a new residence document in EU Member States operating declaratory systems**

Host State	Estimated number of UK residents	Total of applications received	Total of applications concluded	Report date
European Union	768,200	212,300	171,800	12.06.21
Spain	381,400	150,100	142,500	01.06.21
Ireland <sup>221</sup>	115,000	87	87	30.04.21
Germany	100,000	No data	No data	11.06.21
Cyprus	38,500	1,400	800	07.06.21
Portugal	34,500	29,200	No data	31.05.21
Greece	34,000	10,100	9,800	12.06.21
Italy	32,800	7,900	6,500	08.06.21
Bulgaria	10,000	8,000	7,900	02.06.21
Czechia	9,400	1,800	1,500	30.04.21
Poland	6,500	2,000	1,200	31.05.21
Slovakia	2,800	900	800	31.05.21
Estonia	1,500	189	180	31.05.21
Croatia	1,100	433	421	31.05.21
Lithuania	700	181	154	02.06.21

Source: European Commission, *Fourth Joint Report on the Implementation of Residence Rights under Part Two of the Withdrawal Agreement from the Specialised Committee on Citizens' Rights* (June 2021): [https://ec.europa.eu/info/sites/default/files/fourth\\_report\\_draft\\_final\\_version\\_for\\_publication\\_en.pdf](https://ec.europa.eu/info/sites/default/files/fourth_report_draft_final_version_for_publication_en.pdf) [accessed 14 July 2021].

Annex B (extract) – Statistical information for host States with a declaratory system: “Figures in these tables have been reported by EU Member States and are provisional, subject to change and dated according to each national system. Figures are rounded to the nearest 100, therefore table breakdowns may not match overall totals, unless where the figure is lower than 500.”

198. In its report *Implementing the Withdrawal Agreement: citizens' rights*, published on 14 October 2020, the Commons' Committee on the Future Relationship with the European Union noted:

“British in Europe, a coalition of organisations representing UK nationals in the EU, has expressed a preference for countries to adopt a declaratory system with registration, and the ability to apply for a card to provide evidence of residence status. In such a system, for those who

221 Under the Common Travel Area (CTA) arrangement between the UK and Ireland, which predates both countries' membership of the European Community, UK citizens can move freely and reside in Ireland, are afforded certain associated rights and privileges, and are specifically exempt from 'non-national' status under Irish law. As a result, there is no need for UK citizens in Ireland to apply for a residence document under Ireland's declaratory system, although they may do so if they wish to document their Withdrawal Agreement rights. In a letter to the Chair of the House of Commons Future Relationship with the EU Committee on 30 September 2020, Ireland's Ambassador to the UK reiterated that “Ireland remains committed to upholding all aspects of the CTA.” Written evidence from the Ambassador of Ireland submitted to the Committee on the Future Relationship with the European Union (FRE0140)

qualify under the Withdrawal Agreement, rights cannot be lost because a deadline was missed.”<sup>222</sup>

199. While witnesses acknowledged that there were no hard deadlines in declaratory systems, compared to constitutive systems, they nevertheless drew attention to some problems affecting UK citizens in these countries. In respect of Spain, Sue Wilson told us:

“We have a bigger population, and a bigger population of vulnerable older citizens as well, so there have been a lot of delays. I recently applied for my own residency. I started to look for an application back in October and obtained my new identity card only in May. That is a fairly typical example of some of the delays that are causing problems.”<sup>223</sup>

She described the delays as “severe”, explaining that they had been made worse because Spain “had one of the strictest COVID lockdowns, and that has had a big impact on the ability to process an increasingly large and unexpected number of applications”.<sup>224</sup>

200. Sue Wilson also told us about the consequences for UK citizens if they did not secure proof of residency under the Spanish system by 30 June 2021:

“They cannot apply for a Spanish driving licence without taking a test, which would be an issue for those who do not have Spanish language skills because the test is in Spanish. There is also a knock-on effect, in that people relying on ... health cover, or wanting to apply for it, cannot register that cover with the Spanish authorities, so, without their residency, they cannot get free healthcare. That is a particular concern for people with pre-existing conditions who require lots of medications. In some cases, they are thousands of pounds out of pocket because they have to pay for it themselves while they wait to get residency. Although there is no deadline as long as you can prove that you were legally resident before the end of transition, many people are unable to do that, or thought they could but then found that they cannot.”<sup>225</sup>

201. Witnesses also identified issues with decentralised administrative systems in declaratory countries. Jane Golding told us:

“We see challenges sometimes in declaratory countries ... particularly where there are large numbers of UK citizens in EU populations and where implementation is decentralised. Examples are Germany, Spain and Italy. In Germany, implementation is the competence of the regions; national government can simply issue guidance, and there are about 400 different foreigners’ offices across the country.”<sup>226</sup>

202. Commenting on the overall operation of declaratory systems in Member States, Foreign, Commonwealth and Development Office Minister Wendy Morton MP observed that, because citizens’ rights in those countries were “conferred automatically by operation of the law ... the risks posed to UK nationals are lower, when compared with the requirements of a

---

222 Committee on the Future Relationship with the EU, *Implementing the Withdrawal Agreement: citizens’ rights* (Second Report, Session 2019–21, HC 849), para 10

223 [Q 9](#)

224 [Q 13](#)

225 *Ibid.*

226 [Q 9](#)

constitutive system. This is positive, as 72 per cent of UK nationals in the EU, totalling 768,200 people, live in countries operating this system.”<sup>227</sup>

203. At the same time, the Minister noted: “The compliance of administrative procedures in declaratory systems are ... a concern in some cases ... We have been working closely with Member States, such as Spain, and the European Commission, through the Specialised Committee, to resolve these issues, and to ensure the Withdrawal Agreement is upheld.”<sup>228</sup>

### Constitutive systems

204. In a constitutive residence system, individuals within the scope of the Withdrawal Agreement only gain a residence status if they make a successful application for one in their host state. As with the UK’s EU Settlement Scheme, failure to apply by the specified deadline in these countries will mean individuals’ residence rights are not protected by the Withdrawal Agreement.<sup>229</sup>
205. Thirteen EU Member States operate constitutive systems, with varying deadlines, from 30 June 2021 to 31 December 2021. Data on applications received from UK residents in countries with those systems, published in the Fourth Joint Report of the Specialised Committee on Citizens’ Rights in June 2021, are set out in Table 2.

**Table 2: Applications from UK citizens for a new residence status in EU Member States operating constitutive systems**

Host State	Estimated number of UK residents	Total of applications received	Total of applications concluded	Report date	Deadline*
European Union	298,200	223,400	102,000	18.06.21	
France	148,300	140,900	109,300	28.05.21	30.06.21
The Netherlands	45,000	37,800	37,400	31.05.21	30.09.21
Belgium	22,400	4,500	1,600	31.05.21	31.12.21
Denmark	19,000	7,200	4,500	31.05.21	31.12.21
Sweden	17,000	9,000	6,400	08.06.21	30.09.21
Malta	13,600	9,200	7,700	18.06.21	30.06.21
Austria	11,500	5,100	3,600	30.04.21	30.04.21
Hungary	6,000	1,000	800	31.05.21	31.12.21
Luxembourg	5,300	4,000	3,300	12.06.21	30.06.21
Finland	5,000	3,400	1,700	15.06.21	30.09.21

227 Letter from Wendy Morton MP, Minister of State, Foreign, Commonwealth and Development Office, to Lord Kinnoull, Chair of the European Affairs Committee, 7 July 2021: <https://committees.parliament.uk/publications/6745/documents/71974/default/>

228 *Ibid.*

229 FCDO, *Explainer for part two (citizens’ rights) of the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union*, para 16

Host State	Estimated number of UK residents	Total of applications received	Total of applications concluded	Report date	Deadline*
Romania	3,000	600	600	31.05.21	30.09.21
Latvia	1,200	500	450	31.05.21	30.06.21
Slovenia	900	188	176	31.05.21	30.09.21

\* The information in this column has been added by this report and does not appear in the original table.

Source: European Commission, *Fourth Joint Report on the Implementation of Residence Rights under Part Two of the Withdrawal Agreement from the Specialised Committee on Citizens' Rights* (June 2021): [https://ec.europa.eu/info/sites/default/files/fourth\\_report\\_draft\\_final\\_version\\_for\\_publication\\_en.pdf](https://ec.europa.eu/info/sites/default/files/fourth_report_draft_final_version_for_publication_en.pdf) [accessed 14 July 2021]

206. Commenting on the data in the Fourth Report about applications in constitutive countries, Minister Wendy Morton MP observed “the latest statistics are encouraging, showing that 223,400 UK nationals and their family members have applied. This is good progress, representing 75 per cent of the estimated 298,200 UK nationals resident in constitutive countries.”<sup>230</sup> The Minister also spoke positively about the systems in The Netherlands, Finland and Luxembourg, but expressed concerns about the system in Malta telling us: “I do not consider these administrative procedures to be compliant with the Withdrawal Agreement and our officials have raised this with the European Commission and the Maltese government.”<sup>231</sup>

#### *Late applications*

207. Late application policies vary in each Member State, and witnesses drew attention to uncertainty about the consequences of missing deadlines in countries with constitutive systems. Jane Golding confirmed that “reasonable grounds for late application provisions in the Withdrawal Agreement apply to all constitutive countries ... but we do not yet know what the reasonable grounds are”.<sup>232</sup> Dr Benson added: “In a situation where there are intermediaries making decisions about reasonable grounds, they need to be provided with some guidance about what those would be. As yet, that guidance has not been issued.”<sup>233</sup>

208. We note that while the Fourth Joint Report on the Implementation of Residence Rights makes reference to Member States' late application policies, it does not always make clear whether certain countries have issued or plan to issue specific guidance about how they will make reasonable grounds decisions in response to late applications.

209. Dr Benson was also concerned that many UK citizens who missed the deadline could lose their rights altogether:

“The consequences of not applying by these deadlines are that people will lose their rights to the provisions offered by the Withdrawal Agreement. To secure their residence status they may have to use alternative routes such as applying through domestic immigration controls, which have a

230 Letter from Wendy Morton MP, Minister of State, Foreign, Commonwealth and Development Office, to Lord Kinnoull, Chair of the European Affairs Committee, 7 July 2021: <https://committees.parliament.uk/publications/6745/documents/71974/default/>

231 *Ibid.*

232 Q 12

233 *Ibid.*

far higher bar when it comes to eligibility requirements than is expected of those who lawfully exercised their rights to Freedom of Movement under the provisions of the Withdrawal Agreement. There is a risk that those who do not register will become undocumented.”<sup>234</sup>

210. Asked about the steps the Government was taking to help ensure UK citizens did not miss the deadlines in constitutive countries, Wendy Morton MP told us:

“We continue to engage as much as we possibly can and ensure that the message is out there that the deadlines are ahead of us. We have a very comprehensive communications plan aimed at reaching out to as many different groups as we possibly can. Our network of embassies and consulates continues to carry out events to reach out to those citizens. It is important to reiterate that the support we give is intended also to complement and support the communication of EU Member States.”<sup>235</sup>

She added that EU Member States had to have “a comprehensive reasonable grounds policy in place, enabling those who miss the deadline for a good reason to secure rights under the Withdrawal Agreement.”<sup>236</sup>

211. **As of June 2021, the published data for the progress of UK citizens’ applications across both declaratory and constitutive systems presents a mixed picture. In some Member States this appears to be progressing well, while in others problems exist, including where the number of applications received is significantly lower than the estimated UK population in that country. This is in contrast to the UK, where the number of applications made under the EUSS vastly exceeds the estimated population of EU citizens.**
212. **Clearly, there is much work still to be done. We therefore call on the EU Commission and the UK Government to work closely with EU Member States to ensure that where UK citizens are at risk of missing an application deadline, or have already done so, they are promptly identified and supported to access their rights.**
213. **In contrast to the UK authorities, many EU Member States have not yet issued guidance on the approach they will take to late applications. Given the importance of this information to UK citizens, we ask the Government to continue to work with its EU partners to ensure that guidance about late applications is available for UK citizens in every Member State with a constitutive system.**

### **Biometric residence card**

214. Some witnesses underlined the importance of the biometric card, provided by all Member States to UK citizens as proof of residence. Jane Golding said: “Once you have that card, you have a physical document in your hand with which you can prove your status, however you have acquired it—whether

---

234 Written evidence from Dr Michaela Benson ([CIT0008](#))

235 [Q 27](#)

236 Letter from Wendy Morton MP, Minister of State, Foreign, Commonwealth and Development Office, to Lord Kinnoull, Chair of the European Affairs Committee, 7 July 2021: <https://committees.parliament.uk/publications/6745/documents/71974/default/>

you have had to apply for it or it simply derives directly from the Withdrawal Agreement.”<sup>237</sup>

215. She noted that the card would be particularly useful to UK citizens in accessing particular benefits and services:

“You will need that document to prove your residence rights and employment rights and when you are engaging with the health authorities, and for social security benefits, et cetera, and obviously when you are travelling. Without the card, it is far more difficult to move across borders.”<sup>238</sup>

216. Evidence from British in Europe highlighted the consequences for UK citizens of not having the card, even in Member States (such as Germany and Greece) with declaratory systems where it was not mandatory:

“The problems have not only been with officials, but also in other aspects of life where work contracts have not been renewed, bank accounts refused, the completion of a house purchase refused because the UK national has been unable to provide a WA [Withdrawal Agreement] card, even though they are in a declaratory country where the card is optional, and in many cases not available even for those who have applied for it.”<sup>239</sup>

217. Given the importance of the residence cards in enabling card holders to access a range of services and rights, Dr Benson underscored the need for agencies and individuals across the EU to recognise them:

“Lots of people will need to be able to recognise the new biometric cards and what they permit ... This could range from a landlord to government officials. We hope that government officials would be well placed to recognise this, but we can imagine that the standard landlord, who might not have specialist knowledge of complex residence regimes and new situations, would decide to err on the side of caution in that respect. That could have quite a lot of implications for people.”<sup>240</sup>

She added: “There might need to be some additional communication work to make sure that all intermediaries are aware of new statuses and what the new documentation actually is and what it permits.”<sup>241</sup>

218. Minister Wendy Morton MP told us that she “welcomed the EU’s decision” to issue the card, noting: “This matches the EU’s wider approach to evidencing rights and while these documents could be lost and need to be renewed, they create welcome consistency for UK nationals across the EU.”

219. **The EU-wide biometric residence card provides physical evidence for UK citizens living in the EU of their Withdrawal Agreement rights. In many circumstances, UK citizens will need the card to prove their right to residence and employment, as well as when engaging with the health and social security systems, and when travelling across the EU. The evidence we received from witnesses representing UK citizens**

---

237 [Q 14](#)

238 *Ibid.*

239 Written evidence from British in Europe ([CIT0011](#))

240 *Ibid.*

241 *Ibid.*

**living in the EU27 was clear: they welcomed the reassurance that this physical document provides.**

220. **We note that the Government welcomes the EU's decision to issue a physical document to all UK citizens falling within the scope of the Withdrawal Agreement, while resisting calls from many quarters to provide EU citizens with a physical proof of their rights under the UK's system and ask it to clarify why it holds these contrary positions.**

### **Communication issues in both constitutive and declaratory systems**

221. Under Article 37 of the Withdrawal Agreement the UK and Member States are required to “disseminate information concerning the rights and obligations of persons covered by this Part, in particular by means of awareness-raising campaigns conducted, as appropriate, through national and local media and other means of communication”.<sup>242</sup> This obligation applies whether a country elects to use a declaratory or constitutive system.

222. Prior to our inquiry, concerns had been raised about whether communications in some Member States have been sufficient to make UK citizens aware of what they need to do to access their rights under the Agreement. In his letter to Vice-President Šefčovič of 14 May 2020, Rt Hon Michael Gove MP said, “In contrast [to the UK's communications], there have not been the sort of major media campaigns required under Article 37 in EU countries. Information available to UK nationals on government websites of EU Member States varies significantly in content, scale and accessibility.”<sup>243</sup>

223. Researchers and campaigners have also highlighted communications issues affecting both UK and EU27 governments. According to a report on British citizens in France, authored by Dr Michaela Benson, one of the witnesses to our inquiry:

“Official communications from the UK and French governments were slow to clarify what Britons living in France should do to secure their futures, and many have been unclear about where to turn for reliable information about specific concerns. They feel let down by the UK Government, while their encounters with the French state, often in local municipal offices, have created further confusion.”<sup>244</sup>

224. Jane Golding, giving evidence on 25 May, five weeks ahead of the 30 June deadline for applications in France, Latvia, Luxembourg and Malta, addressed the question of whether Member States were meeting their Article 37 responsibilities, as well as the difficulties caused by not having sufficient information, made more serious by the impending deadlines in constitutive countries:

“We think that a number of EU member states are likely to be at risk of breaching the information requirements under the Withdrawal Agreement—Article 37—due to the amount of information they have put out so far. France and Italy are two countries where we would have

---

242 *Withdrawal Agreement*, Article 37

243 Letter from Rt Hon Michael Gove MP, Chancellor of the Duchy Of Lancaster to Maroš Šefčovič, Vice-President, European Commission, 14 May 2020: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/885252/200514\\_Letter\\_from\\_Rt\\_Hon\\_Michael\\_Gove\\_MP\\_to\\_VP\\_Sefcovic.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885252/200514_Letter_from_Rt_Hon_Michael_Gove_MP_to_VP_Sefcovic.pdf) [accessed 14 July 2021]

244 Dr Michaela Benson, *Brexit and the British in France* (24 February 2020): <http://research.gold.ac.uk/id/eprint/28222/> [accessed 14 July 2021]

concerns, as is Luxembourg. I think that is because the bar has to be very high in this situation, particularly for constitutive countries with hard deadlines, because these are people who were legally resident under EU law until the end of 2020 and they are now having rights removed from them, and it is all happening during a pandemic. Where there is a particularly high bar, there is an obligation to inform through awareness-raising campaigns in national and local media, particularly in constitutive countries, and we are not always seeing that.”<sup>245</sup>

225. Also speaking about France, Dr Benson agreed:

“There are some real areas of concern about the information requirements ... There has been very little publicity by the Ministry of the Interior. The website that contains the information about the registration process is incredibly basic, even though it is available in French and English, and it does not provide the appropriate technical information to people who will be applying. Further, there is no public guidance to individual prefectures about how they might make decisions around, for example, reasonable grounds for late applications. In France, the local prefectures are quite significant in the process.”<sup>246</sup>

226. On the UK Government’s engagement with the French authorities, Minister Wendy Morton MP told us:

“I have previously raised concerns with the Commission around the level of communications delivered by the French authorities; however, as 140,900 out of an estimated 148,300 residents have applied the message has evidently been reaching the majority of UK nationals. Furthermore, the French government have provided assurances that a high degree of flexibility will be shown to those who missed the deadline during the next three months.”<sup>247</sup>

227. Sue Wilson endorsed this view, in respect of UK citizens living in Spain: “The only concern is about communication. That seems to me the only area where there is a risk of breaching any obligations.”<sup>248</sup>

228. Asked whether she shared witnesses’ concerns about possible Member State non-compliance with the Withdrawal Agreement, the Minister said:

“All Member States have implemented and are applying the Withdrawal Agreement. Let us be clear on that. To that extent I do not envisage a systemic failure or any malicious suspension of the rights that we have protected. That said, we continue to monitor, as I am sure you would expect us to, any reports we receive of non-compliance, or of UK nationals in the EU who have experienced difficulty in evidencing or exercising or even accessing their rights. We continue to monitor that very closely.”<sup>249</sup>

---

245 [Q 10](#)

246 *Ibid.*

247 Letter from Wendy Morton MP, Minister of State, Foreign, Commonwealth and Development Office, to Lord Kinnoull, Chair of the European Affairs Committee, 7 July 2021: <https://committees.parliament.uk/publications/6745/documents/71974/default/>

248 [Q 10](#)

249 [Q 29](#)

The Minister went on to explain that the Government would “use the different channels we have—our network of posts across member states and the Specialised Committee—to continue to raise issues as they come up and make sure that citizens’ rights are a priority.”<sup>250</sup>

229. At the same time, the Minister did acknowledge that “a lack of communications and operational guidance has resulted in UK nationals experiencing difficulty evidencing their rights and being refused access to the benefits and services they are entitled to as beneficiaries of the Withdrawal Agreement.”<sup>251</sup> She told us that failures in some EU countries to communicate effectively with their UK populations was “in contrast to the £30 million spent by the UK on communications and support for EU citizens in the UK and the availability of operational guidance” online. She added that while there had been successes, “particularly in those countries who have sent letters to their residents, the majority of Member States have not carried out proactive communications campaigns through national and local media.” This had led to “an inconsistent application of the Withdrawal Agreement in some cases.”<sup>252</sup> In response, the Minister explained the Government “have consistently raised the need for clear operational guidance and communications from Member States and their local and regional authorities at the Specialised Committee on Citizens’ Rights and bilaterally. I am pleased to note that this has had an effect.”<sup>253</sup>

*Digital exclusion and vulnerable groups*

230. Our witnesses also raised the problems caused by digital exclusion—affecting those individuals who have limited or no access to digital information, including via the internet, and who therefore are not able to receive information about their Withdrawal Agreement rights through this medium. Jane Golding explained:

“What we are seeing in Member States is that, where they are putting out good information, it tends to be online rather than through national and local media, for example, so it is easier to reach people who are digital, and less easy to reach people who are more vulnerable or are not so digitally literate.”<sup>254</sup>

Dr Benson told us: “A lot of information is available online, but that does not account for people who have digital exclusion issues, whether because they do not have the internet or because they cannot use it.”<sup>255</sup>

231. On the situation in Spain, Sue Wilson said: “Most of the communications that come out from Spain are online. Most of them, thankfully, are in English, but they are not exclusively in English. It is all available to people who have access to the internet, but there are very vulnerable groups that do not have access and are not getting that information.”<sup>256</sup>

---

250 Q 30

251 Letter from Wendy Morton MP, Minister of State, Foreign, Commonwealth and Development Office, to Lord Kinnoull, Chair of the European Affairs Committee, 7 July 2021: <https://committees.parliament.uk/publications/6745/documents/71974/default/>

252 *Ibid.*

253 *Ibid.*

254 *Ibid.*

255 *Ibid.*

256 *Ibid.*

232. In relation to the situation in Bulgaria and Greece, the AIRE Centre told us:

“As far as we are aware there have been no information campaigns by local authorities other than in the digital space. We are aware of joint efforts by the respective Embassies and local authorities aimed at the dissemination of leaflets and brochures in migration offices or other public authorities. However, as far as we are aware, these have not been implemented yet.”<sup>257</sup>

233. As well as digital exclusion, we heard evidence of other challenges vulnerable individuals face. Dr Benson told us that in France, “Any physical meetings that might have been planned would have been postponed or cancelled due to COVID restrictions. Those would have been the opportunity for some outreach to the most vulnerable within the British community”.<sup>258</sup>

234. **Whether they have constitutive or declaratory systems, some EU Member States have failed to communicate effectively with their UK populations. There have been problems with inconsistent levels of communication to UK citizens, which, when compounded by other issues such as digital exclusion and the effect of the COVID-19 pandemic, may cause some to fail to access their Withdrawal Agreement rights. We therefore urge the Government to continue to make every effort to raise such issues with the EU Commission and relevant Member States, including at meetings of the Specialised Committee, to ensure they are addressed.**

### Support for UK citizens

#### *UK Nationals Support Fund*

235. The UK Nationals Support Fund (UKNSF), launched by the UK Government in March 2020, “Provides practical support for UK nationals resident in EU or EFTA countries who need additional assistance in applying for residency.”<sup>259</sup> Its purpose is to support those “who are having difficulty completing their residency applications. This includes pensioners, disabled people, people living in remote areas or people who have mobility difficulties”.<sup>260</sup>

236. The organisations that have received funding and the countries in which they operate are:<sup>261</sup>

- The AIRE Centre (Bulgaria, Greece, Iceland and Norway)
- Age in Spain (Spain—Catalonia and the Balearic Islands)
- Asociación Babelia (Spain—Alicante, Valencia and Castellón)
- Cyprus International Financial Services Association (Cyprus)
- Franco British Network (France)

---

257 Written evidence from the Aire Centre (CIT0001)

258 *Ibid.*

259 FCDO, ‘UK Nationals Support Fund (UKNSF): applying for residency in EU or EFTA countries’ (31 March 2021): <https://www.gov.uk/guidance/uk-nationals-support-fund-uknsf-applying-for-residency-in-eu-or-efta-countries> [accessed 14 July 2021]

260 *Ibid.*

261 Committee on the Future Relationship with the EU, *Implementing the Withdrawal Agreement: citizens’ rights* (Second Report, Session 2019–21, HC 849), para 24

- International Organisation for Migration (France, Spain, Poland, Slovakia, Germany, Italy and Portugal)
- SSAFA, the Armed Forces charity (British veterans and families in France, Germany and Cyprus)

237. Some campaigners have criticised the operation of the Fund. In evidence to the Commons Committee on the Future Relationship with the European Union in June 2020, British in Europe raised concerns that only 23% of UK citizens in France will be able to access it, while other EU Member States are not covered at all.<sup>262</sup>

238. Dr Benson raised similar concerns:

“Concerns about it are to do with ... which countries it covers and which it does not. Understandably, there is quite a lot of coverage in France and Spain, but that means some other countries do not necessarily have the coverage that might be necessary, particularly for those vulnerable populations.”<sup>263</sup>

239. Jane Golding agreed:

“Initially, £3 million was allocated to it, but it covers only 12 countries. Of those, it covers only two constitutive countries, which are obviously those with deadlines where probably the help is most needed. France at least is covered, but that means that 15 other countries are not covered by the support.”<sup>264</sup>

240. The Minister, Wendy Morton MP, told us:

“We have provided up to £4 million of grant funding, which goes through third-party organisations to support UK nationals in the EU to help in registering or applying for new residence status. The funding currently runs through the financial year 2021/22, but this is something we will keep under review. Through our partners we have reached 320,000 individuals, and 16,000 UK nationals have been directly supported by a caseworker.”<sup>265</sup>

241. The Minister acknowledged that the Fund operated in only 12 countries, and explained how the UK Government decided where it should be spent:

“In deciding where to allocate our funding ... we look to balance our objective of achieving a broad geographic cover with the obvious need to achieve value for money and ensure that the funds support the largest number of at-risk UK nationals, as well as the availability of viable organisations that can help with this programme.”<sup>266</sup>

242. Asked about other Member States, the Minister said: “Beyond the Fund, we support UK nationals and their family members in every relevant European country by communications campaigns to inform UK nationals of what action they may need to take to secure their rights under the withdrawal

---

262 Oral evidence taken before the Committee on the Future Relationship with the European Union, 30 June 2020 (Session 2019–21), [QQ 471–514](#)

263 [Q 15](#)

264 *Ibid.*

265 [Q 26](#)

266 *Ibid.*

agreement.”<sup>267</sup> She also acknowledged “there are vulnerable people, including older people, we need to reach. That is why we continue to hold a whole range of outreach events across countries”.<sup>268</sup>

243. Sue Wilson described a lack of confidence among some UK citizens in support for their rights from the British Government: “We did a recent survey that included over 600 testimonies from our members. The concern at the top of the list was lack of confidence and trust in the British Government.”<sup>269</sup> Dr Benson endorsed this view:

“We worked with about 600 people over the course of two years. The human face of this is an overwhelming feeling among the people who took part in the research that they were out of sight and out of mind of the UK Government. A lot of work will have to be done to rebuild confidence among that British population, particularly those living in the EU, that the Government will defend and represent their interests.”<sup>270</sup>

244. At the same time, both witnesses praised the support UK citizens had received from certain UK embassies and consulates in the EU, with Sue Wilson describing the UK embassy in Madrid as “wonderful”: “The quality and regularity of the information and the openness and transparency have been fantastic. It has a fantastic relationship with the Spanish authorities and keeps us well updated.” Jane Golding added: “A lot of officials are working very hard to defend our rights. We have regular meetings with them and we can raise issues with them and they feed them in.”<sup>271</sup>

#### *Non-government support*

245. Some support has been available outside of UK Government help, but this tends to be confined to UK citizens living in larger communities. Dr Benson highlighted “long-standing local community groups, charities and organisations that for a long time have particularly supported elderly British people”.<sup>272</sup> But Sue Wilson explained that the British community living in Spain were not “getting as much help as is needed. There are three groups operating in Spain, and they are doing an excellent job in the areas where they work, but not all Brits in Spain live on the *costas*, and they do not all live in large conurbations”.<sup>273</sup>
246. **The UK Nationals Support Fund provides important support to third party organisations to help UK citizens, particularly those who are vulnerable, to access their rights under the Withdrawal Agreement. We note that it targets those organisations that support the largest populations of UK citizens and we also note that not every Member State may have third party organisations that could receive this funding. However, we are concerned that the fund currently only covers 12 EU countries, and, given the importance of the support it provides, we call on the Government to extend its coverage, as a matter of urgency, to as many EU countries as possible, particularly to those with constitutive systems.**

---

267 *Ibid.*

268 *Ibid.*

269 [Q 16](#)

270 *Ibid.*

271 *Ibid.*

272 *Ibid.*

273 *Ibid.*

247. **We note that this funding is currently provided for the financial year 2021/22. We welcome the fact that the Government is keeping it under review, particularly given its importance to vulnerable UK citizens, who may need support after the various deadlines this year have passed.**
248. **We note that some UK citizens living in the EU are not confident that the Government will support them and represent their needs, although there was praise for the support given from UK embassies and consulates. We urge the Government to do all that it can to maintain and develop trust with those communities, as it works with the EU to support their rights under the Withdrawal Agreement.**

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

---

### The Withdrawal Agreement and citizens' rights

1. It remains a matter of regret to us that the Parties did not address the onward free movement rights of British citizens in the Withdrawal Agreement or the TCA. In our view, this issue is best addressed via international cooperation. Looking to the future therefore, we call on the Government to raise the issue with the EU through the institutional arrangements introduced by the Withdrawal Agreement or the TCA, as appropriate. (Paragraph 24)
2. The Government should support UK regulators and professional bodies in utilising the machinery of the TCA to negotiate and conclude agreements on the mutual recognition of professional qualifications as soon as possible. We would welcome an update on the Government's priorities in this respect in their response to this report. (Paragraph 28)
3. The Independent Monitoring Authority, as required by the Withdrawal Agreement, plays an important role in monitoring the operation of the UK's EU Settlement Scheme and the protection of EU citizens' rights. It is therefore essential that it makes a strong and concerted effort to make those citizens aware of its existence and its role to support them to exercise their rights under the Scheme. (Paragraph 35)
4. The European Commission, as required by the Withdrawal Agreement, plays an important role in monitoring the implementation of the citizens' rights provisions in EU Member States and in protecting UK citizens' rights. We note that groups representing UK citizens report positive engagement with the Commission and we hope this will continue. (Paragraph 38)
5. Currently, the UK, the EU Commission and EU Member States have taken a constructive approach to citizens' rights, which we welcome. But both sides need to be vigilant that the wider issues in their relationship do not spill over into citizens' rights issues. Given the importance of these matters to millions of individuals, we recommend both sides continue this positive approach to discharging their citizens' rights obligations under the Withdrawal Agreement, regardless of wider tensions in their relationship. (Paragraph 53)

### EU citizens' rights in the UK

6. The number of concluded applications to the EU Settlement Scheme is a considerable achievement by the Home Office. There are many more EU citizens in the UK than there are UK citizens across the EU, and the UK Government faced a huge challenge in encouraging and processing over 5.4 million applications ahead of the deadline. We also welcome the Home Office's approach of looking for reasons to grant status, rather than reasons to refuse. (Paragraph 69)
7. Some EU Member States have constitutive systems and others have declaratory systems. We note that the UK's EU Settlement Scheme has been open for nearly a year longer than the earliest constitutive scheme opened in the EU. (Paragraph 70)

8. At the same time, because there are so many EU citizens in the UK, failure by even a tiny percentage of the total eligible cohort to apply may mean thousands of individuals slipping through the cracks. The issues these individuals face will remain an ongoing challenge for the Government. (Paragraph 71)
9. We are concerned that the relatively low numbers of applicants to the EUSS among children in care and care leavers may also be reflected in other vulnerable groups, who, by their nature, may be difficult to reach. While the lack of comprehensive data makes it difficult to know for certain how many EU citizens failed to apply on time, the Home Office should continue to do all it can to reach those who missed the deadline, especially vulnerable persons, and encourage them to make a late application. (Paragraph 72)
10. We welcome the Government's decision to take a more generous approach to eligibility for the Settlement Scheme than the Withdrawal Agreement requires, but this has potentially led to a misalignment between status under the Settlement Scheme and rights under the Withdrawal Agreement. There may be a risk of legal uncertainty for some EU citizens if they cannot use their EUSS status to evidence their rights under the Agreement. Were this to be the case, it could have adverse consequences for those affected. (Paragraph 80)
11. We recognise that there is a difference of opinion between the UK and the EU over this issue, and call on the Government to seek a resolution via the Specialised Committee as a matter of urgency. (Paragraph 81)
12. According to the terms of the Withdrawal Agreement and the Court of Justice's decision in *Lounes*, EU nationals who exercised their free movement rights, naturalised as British citizens, and satisfy the relevant criteria, enjoy family reunion rights. Although the Home Office guidance acknowledges the position of so-called *Lounes* dual nationals, we are concerned that because British citizens cannot access the EUSS, these individuals will find it hard in future to evidence these important rights. We invite the Government to set out how it intends to address this problem in its response to this report. (Paragraph 85)
13. Some EU citizens living in the UK are particularly vulnerable to losing their rights, such as older adults, those with now defunct EEA permanent residency, and those unfamiliar with digital technology. These vulnerabilities have, in many cases, been exacerbated by the lack of in-person support and services during the pandemic. How many of these individuals missed the deadline, and the Government's response to their circumstances, will be key indicators of the Settlement Scheme's success. (Paragraph 101)
14. We are concerned by the low proportion of applications from older EU citizens, who are more vulnerable to digital exclusion: just 2% of all applications to the Settlement Scheme are from over-65s. Some witnesses suggested that this may indicate low take-up. We call on the Government to explain whether it shares these concerns, and if so, what steps it intends to take to ensure that over-65s are supported in making late applications. (Paragraph 102)
15. We welcome the Government's support for vulnerable groups via grant-funded organisations. While this funding is currently set to expire at the end of September 2021, we anticipate that the problems facing vulnerable

EU citizens will persist for longer. We welcome the Minister's indication that the Government will consult on extending this funding further. In our view it should be, and we request that the Government update Parliament on the outcome of those consultations as soon as possible. (Paragraph 103)

16. Vulnerable EU citizens are classed as such because they were at risk of missing the 30 June deadline. The best way to protect the rights of the vulnerable is to ensure protections are in place for late applicants. While we welcome the inclusion in current Home Office guidance of a number of vulnerabilities as potential "reasonable grounds" for late applications, we remain concerned that these protections may not be sufficient. Greater clarity and more comprehensive legal safeguards may be needed. (Paragraph 104)
17. The Government chose not to extend the 30 June deadline for the EUSS. Although we heard support from witnesses for a short extension, this would not in itself have resolved the fundamental issues facing many EU citizens in the UK. Now the deadline itself has passed, putting appropriate protections in place for those who have missed it is all the more important. In line with the criteria in Article 18 of the Withdrawal Agreement, simply missing the deadline of 30 June 2021 must not result in the automatic rejection of an application. (Paragraph 108)
18. Most EU citizens who applied before the deadline but have not yet received a decision have their rights protected in law until a decision is made. This is welcome, given the apparent backlog in processing applications just before the deadline. We are concerned over the extent to which certificates of application can be used to prove rights in practice (given that these certificates do not confer status), and the uncertainty for those who may be out of scope of the 2016 EEA Regulations. We call on the Government to provide clarity on these points. (Paragraph 115)
19. Citizens' basic rights under the Withdrawal Agreement should not be affected by virtue of simply missing the June deadline. If the Government does not meet its obligations under Article 18 of the Withdrawal Agreement, we fear that this could lead to unnecessary and stressful litigation. We will continue to monitor this issue going forward. (Paragraph 131)
20. We welcome the Government's confirmation that it will continue to look for reasons to grant status rather than reasons to refuse when processing late applicants, and will be giving late applicants "the benefit of any doubt." We also welcome that the online system for EUSS applications remains open; it should remain so for as long as late applications are possible. (Paragraph 132)
21. We are concerned, however, that current guidance suggests the "benefit of any doubt" approach may only be temporary. We call on the Government to provide greater clarity on how long this approach will last, and to consider a commitment to continuing it on a longer-term basis. The "benefit of any doubt" approach is yet to be tested, and we will keep these matters under close scrutiny. (Paragraph 133)
22. Although the current guidance on handling late applications is inclusive and comprehensive, the Government will need to ensure that late applications are handled consistently, not only by Home Office caseworkers, but also by other Government departments and public bodies. (Paragraph 134)

23. We are concerned by the general presumption in caseworker guidance that the longer an application is after the deadline, the less likely it is to meet the “reasonable grounds” criteria. We call on the Home Office to explain the rationale for this presumption. (Paragraph 135)
24. We also note the concerns expressed over the guidance on late applicants from pregnant and recent mothers, as well as new-born babies, and invite the Government to look again at these issues. In addition, we are deeply concerned that Government guidance appears to subject victims of modern slavery and domestic abuse to more intrusive immigration history checks than other groups. We call upon the Government to respond to these concerns. (Paragraph 136)
25. The Government’s assurances that it will adopt a “generous” approach to late applications is not yet underpinned by a corresponding legal safety net for those who have missed the deadline. An individual who applies late could be left in legal limbo while they await a Home Office decision, potentially for months. (Paragraph 143)
26. It is not too late for the Government to address this issue, and we have heard many specific suggestions from witnesses, including proposals to grant late applicants rights provisionally from the point when they apply, rather than from when status is granted, or to write off liabilities rising from an “interim period of unlawfulness” between the 30 June deadline and the point of application. We call on the Government to set out how it intends to resolve the legal uncertainty facing late applicants, so as to give greater certainty to vulnerable individuals. (Paragraph 144)
27. The Government should also ensure funding and support for helplines and resolution centres are in place to support those making late applications over the long-term. (Paragraph 145)
28. We recommend that the Home Office also continues to provide long-term statistical updates on applications to the EU Settlement Scheme until at least June 2026, when the final awards of pre-settled status for on-time applications expire. This will ensure transparency regarding the number of late applications, and thereby facilitate continued parliamentary scrutiny of the Scheme. (Paragraph 146)
29. While we note the advantages the Government sees in a digital-only system, we nevertheless regret that it has persisted with this approach in respect of the EU Settlement Scheme. It has done so despite repeated concerns raised by campaigners, support organisations, and the views of parliamentary committees of both Houses. (Paragraph 157)
30. The lack of a physical document places an onus on EU citizens to have digital skills, and puts predominantly vulnerable individuals who are digitally excluded or required support when they submitted their original application at risk of dependency and exploitation. There is a risk that the difficulties EU citizens may face in proving their rights will undermine the Government’s considerable success in ensuring millions of EU citizens secured their status in the first place. (Paragraph 158)

31. We strongly recommend that the Government offer holders of settled or pre-settled status the additional option of requesting physical documents, which would complement rather than replace their existing digital status. This could draw on the precedent of COVID-19 status certificates, and would be of particular benefit to those currently disadvantaged by digital-only status. (Paragraph 159)
32. In parallel, we call on the Government to launch a major communications and training campaign to ensure that all relevant public and private sector authorities—including Border Force, welfare officers, landlords and employers—are aware of how EU citizens will be proving their status. This should build on the existing guidance to employers and landlords, which we welcome. (Paragraph 160)
33. We welcome the new COVID-19 exemption to the rules around permitted absences; without this, an unknown number of EU citizens could have rendered themselves ineligible for full settled status by leaving or being prevented from travelling to the UK during the pandemic. We urge the Government to publicise these changes as widely as possible. (Paragraph 164)
34. The Government successfully ensured that over 5.4 million eligible citizens applied under the EUSS ahead of the 30 June 2021 deadline. But over 2 million of these were granted time-limited rights in the form of pre-settled status, placing the onus squarely upon them to preserve their rights by successfully applying in due course for settled status. If they do not, they may lose their rights in the coming years. (Paragraph 174)
35. Replicating the initial success of the Settlement Scheme will be more difficult in the next phase; rather than one deadline for millions of people, there are now many individual deadlines. We welcome the Home Office's plans to send individual reminders, but this relies on EU citizens keeping their contact details up to date. The Government should therefore make full use of community networks, and maintain helplines and resolution centres, to support holders of pre-settled status in applying on time. (Paragraph 175)
36. Holders of pre-settled status who miss their deadline for applying for settled status can make late applications if they have reasonable grounds to do so. The Government has undertaken, for the time being, to give late applicants the “benefit of any doubt ... for the time being”. But as the first of these deadlines are not until August 2023, we are concerned that pre-settled status holders are vulnerable to a reversal of the temporary and non-binding “benefit of any doubt” policy. (Paragraph 176)
37. There is a lack of data on how many holders of pre-settled status are still residing in the UK, and uncertainty over how many will want or need to apply for full settled status in the future. This will make it difficult to assess the Government's success in ensuring people make the switch to settled status on time. (Paragraph 177)
38. We note that the issue of pre-settled status and access to welfare rights is currently the subject of two separate legal challenges. We await with interest the outcome of these cases. (Paragraph 182)

### UK citizens in the EU

39. It is clear there are problems in identifying accurately how many UK citizens are resident in some Member States and where exactly they live. We urge the EU Commission and the UK Government to do all that they can, when engaging with Member States on citizens' rights, to ensure that host countries do not miss sections of their own UK national populations. The UK government should also engage with the EU Commission as the monitoring authority within the EU. This engagement should continue after the expiry of constitutive Member States' deadlines: missed UK citizens may only be identified at this time, with serious consequences for the individuals concerned. (Paragraph 193)
40. As of June 2021, the published data for the progress of UK citizens' applications across both declaratory and constitutive systems presents a mixed picture. In some Member States this appears to be progressing well, while in others problems exist, including where the number of applications received is significantly lower than the estimated UK population in that country. This is in contrast to the UK, where the number of applications made under the EUSS vastly exceeds the estimated population of EU citizens. (Paragraph 211)
41. Clearly, there is much work still to be done. We therefore call on the EU Commission and the UK Government to work closely with EU Member States to ensure that where UK citizens are at risk of missing an application deadline, or have already done so, they are promptly identified and supported to access their rights. (Paragraph 212)
42. In contrast to the UK authorities, many EU Member States have not yet issued guidance on the approach they will take to late applications. Given the importance of this information to UK citizens, we ask the Government to continue to work with its EU partners to ensure that guidance about late applications is available for UK nationals in every Member State with a constitutive system. (Paragraph 213)
43. The EU-wide biometric residence card provides physical evidence for UK citizens living in the EU of their Withdrawal Agreement rights. In many circumstances, UK citizens will need the card to prove their right to residence and employment, as well as when engaging with the health and social security systems, and when travelling across the EU. The evidence we received from witnesses representing UK citizens living in the EU27 was clear: they welcomed the reassurance that this physical document provides. (Paragraph 219)
44. We note that the Government welcomes the EU's decision to issue a physical document to all UK citizens falling within the scope of the Withdrawal Agreement, while resisting calls from many quarters to provide EU citizens with a physical proof of their rights under the UK's system and ask it to clarify why it holds these contrary positions. (Paragraph 220)
45. Whether they have constitutive or declaratory systems, some EU Member States have failed to communicate effectively with their UK populations. There have been problems with inconsistent levels of communication to UK citizens, which, when compounded by other issues such as digital exclusion and the effect of the COVID-19 pandemic, may cause some to fail to access their Withdrawal Agreement rights. We therefore urge the Government to

continue to make every effort to raise such issues with the EU Commission and relevant Member States, including at meetings of the Specialised Committee, to ensure they are addressed. (Paragraph 234)

46. The UK Nationals Support Fund provides important support to third party organisations to help UK citizens, particularly those who are vulnerable, to access their rights under the Withdrawal Agreement. We note that it targets those organisations that support the largest populations of UK citizens and we also note that not every Member State may have third party organisations that could receive this funding. However, we are concerned that the fund currently only covers 12 EU countries, and, given the importance of the support it provides, we call on the Government to extend its coverage, as a matter of urgency, to as many EU countries as possible, particularly to those with constitutive systems. (Paragraph 246)
47. We note that this funding is currently provided for the financial year 2021/22. We welcome the fact that the Government is keeping it under review, particularly given its importance to vulnerable UK citizens, who may need support after the various deadlines this year have passed. (Paragraph 247)
48. We note that some UK citizens living in the EU are not confident that the Government will support them and represent their needs, although there was praise for the support given from UK embassies and consulates. We urge the Government to do all that it can to maintain and develop trust with those communities, as it works with the EU to support their rights under the Withdrawal Agreement. (Paragraph 248)

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTERESTS

---

### Members

Baroness Couttie  
 Lord Faulkner of Worcester  
 Lord Foulkes of Cumnock  
 Lord Hannay of Chiswick  
 Lord Jay of Ewelme  
 Baroness Jolly  
 The Earl of Kinnoull (Chair)  
 Lord Lamont of Lerwick  
 Lord Liddle  
 Lord Purvis of Tweed  
 Viscount Trenchard  
 Lord Tugendhat  
 Lord Wood of Anfield

### Declarations of Interest

Baroness Couttie  
*Non-Executive Director at Mitie  
 Commissioner with the Guernsey Financial Services Commission  
 Vice-President of the Local Government Association*

Lord Faulkner of Worcester  
*Chairman of the Alderney Gambling Control Commission  
 British Government Trade Envoy to Taiwan  
 Lord Faulkner's daughter lives and works in France and has acquired French citizenship.*

Lord Foulkes of Cumnock  
*No relevant interests to declare*

Lord Hannay of Chiswick  
*Member of the Advisory Board of the Centre for European Reform  
 Chair of the Senior European Experts Group  
 Lord Hannay has a French daughter-in-law who has been awarded Settled Status*

Lord Jay of Ewelme  
*No relevant interests to declare*

Baroness Jolly  
*No relevant interests to declare*

The Earl of Kinnoull (Chair)  
*No relevant interests to declare*

Lord Lamont of Lerwick  
*No relevant interests to declare*

Lord Liddle  
*No relevant interests to declare*

Lord Purvis of Tweed  
*No relevant interests*

Viscount Trenchard  
*Viscount Trenchard has a German daughter-in-law who has been awarded Settled Status*

Lord Tugendhat

*Lord Tugendhat has an Italian daughter-in-law who has been awarded Settled Status*

Lord Wood of Anfield

*No relevant interests to declare*

## APPENDIX 2: LIST OF WITNESSES

---

Evidence is published online at <https://committees.parliament.uk/work/1246/citizens-rights> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral and written evidence. Those marked with \* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

*	Fiona Costello, Research Associate, University of Cambridge	<a href="#">QQ 1–9</a>
*	Kate Smart, Chief Executive Officer, Settled	<a href="#">QQ 1–9</a>
**	Monique Hawkins, Policy and Research Officer, the3million	<a href="#">QQ 1–9</a>
**	Jane Golding, Co-Chair, British in Europe	<a href="#">QQ 9–16</a>
*	Sue Wilson, Chair, Bremain in Spain	<a href="#">QQ 9–16</a>
**	Dr Michaela Benson, Reader in Sociology, Goldsmiths, University of London	<a href="#">QQ 9–16</a>
*	Kevin Foster MP, Parliamentary Under-Secretary of State, Home Office	<a href="#">QQ 17–31</a>
*	Wendy Morton MP, Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office	<a href="#">QQ 17–31</a>
*	Nicola Smith, Deputy Director, EEA Citizens' Rights and Hong Kong Unit, Home Office	<a href="#">QQ 17–31</a>
*	Gabrielle Monk, Head of Euro and Settlement and EU Settled Status Customer Resolution Centre, Home Office	<a href="#">QQ 17–31</a>
*	Gareth Roberts, Head of EU Department, Foreign, Commonwealth and Development Office	<a href="#">QQ 17–31</a>

### Alphabetical list of all witnesses

	The AIRE Centre	<a href="#">CIT0001</a>
	The AIRE Centre UK Nationals Support Fund	<a href="#">CIT0002</a>
**	Dr Michaela Benson, Reader in Sociology, Goldsmith, University of London ( <a href="#">QQ 9–16</a> )	<a href="#">CIT0008</a>
	British multi-country residents affected by Brexit	<a href="#">CIT0003</a>
*	Fiona Costello, Research Associate, University of Cambridge ( <a href="#">QQ 1–9</a> )	
	EU Rights and Brexit Hub	<a href="#">CIT0005</a>

- \* Kevin Foster MP, Parliamentary Under-Secretary of State, Home Office ([QQ 17-31](#))
- \*\* Jane Golding, Co-Chair, British in Europe ([QQ 9-16](#)) [CIT0011](#)
- \*\* Monique Hawkins, Policy and Research Officer, the3million ([QQ 1-9](#)) [CIT0010](#)
- Independent Monitoring Authority [CIT0006](#)
- International Organization for Migration [CIT0012](#)
- Professor Madeleine Sumption, Migration Observatory, University of Oxford [CIT0007](#)
- \* Gabrielle Monk, Head of Euro and Settlement and EU Settled Status Customer Resolution Centre, Home Office ([QQ 17-31](#))
- \* Wendy Morton MP, Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office ([QQ 17-31](#))
- New Europeans [CIT0009](#)
- Professor Charlotte O'Brien [CIT0004](#)
- \* Gareth Roberts, Head of EU Department, Foreign, Commonwealth and Development Office ([QQ 17-31](#))
- \* Kate Smart, Chief Executive Officer, Settled ([QQ 1-9](#))
- \* Nicola Smith, Deputy Director, EEA Citizens' Rights and Hong Kong Unit, Home Office ([QQ 17-31](#))
- \* Sue Wilson, Chair, Bremain in Spain ([QQ 9-16](#))