

The UK EU Settlement Scheme (UKEUSS) – on the ground

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In this edition, we cover the following:

- Continuing the demand for ringfencing
- Settled Status – problems with the application process
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- Ensuring citizens apply for the EU Settlement Scheme
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Continuing the demand for ringfencing

The fact that two disastrous no-deal outcomes, on 29th March and 12th April, have been averted does not mean that 5 million citizens can sleep any easier. Our uncertainty and anxiety has simply been extended until 31st October 2019. We simply cannot understand how the EU can maintain its position against ringfencing, while such ringfencing *has* been done in the case of [EEA EFTA states](#) and [Switzerland](#).

On the 27th February, the UK parliament [unanimously passed the Costa amendment](#), calling for Theresa May to seek agreement with the EU to take citizens' rights off the table and guarantee them in all Brexit outcomes. Stephen Barclay, the Secretary of State for Exiting the European Union [wrote to Michel Barnier](#) on the 4th March. British in Europe and the3million [wrote to Donald Tusk](#) on the 6th March, asking for ringfencing to be put on the agenda at the EU Council of 21/22 March. We did not receive a reply.

[Michel Barnier's reply](#) to Stephen Barclay of the 25th March repeated that '*the best way to safeguard the rights of the citizens affected by the United Kingdom's withdrawal is to have the Withdrawal Agreement ratified*'. We assert that this is an acknowledgment that we are being held as hostages against a no-deal.

On the 2nd April, the [Dutch parliament](#) was the first European parliament to throw its weight behind ringfencing.

Following the latest extension of Article 50 [we continue to argue](#) that we '*need a binding commitment now from both sides that rescuing the hard won citizens' rights part of the Withdrawal agreement will be the contingency, instead of the current contingency plans providing for 28 separate unilateral solutions without international treaty protection*' (Jane Golding, British in Europe).

In a no-deal scenario, without ringfencing, EU citizens and their families in the UK will be at [serious risk of discrimination](#) due to the Government's policy of creating two sets of EU citizens, in which it will be in employers' own interest to discriminate even if they do not wish to do so.

Settled Status – problems with the application process

The Settled Status application scheme began its full roll out to the general public on the 30th March. The Home Office announced that [over 50,000 people applied](#) on the opening weekend. Although the application process is proving to be reasonably straightforward for people who fit the “full-time working employee” persona that the scheme is designed for, we have seen a significant number of problems.

- The scheme was hit by [technical problems on the day of the launch](#), and many users were left frustrated as they were confronted by error messages.
- Although the official [list of acceptable documents](#) includes “used travel ticket confirming you entered the UK from another country”, a Bulgarian citizen applying for pre-settled status who sent several documents including a plane ticket and boarding pass was told “the **evidence you have provided is not sufficient** because we cannot accept flight bookings, boarding passes etc as evidence.”
- Another Bulgarian citizen, who is self-employed and already had a **Permanent Residence document**, applied for settled status. She was told there the system could find no residence data match for her, and asked her to send in 5 years worth of residence evidence, and her passport. However, the EU Settlement scheme states (and this was confirmed in a recent meeting between the3million and the Home Office) that holders of a PR document will not be subjected to the automated HMRC / DWP residence checks, and only need to self-declare that they have not left the UK for over 5 years since the date of their PR document. We have seen several other similar reports.
- Many citizens have not been able to use the settled status App for various reasons:
 - not having a suitable passport, or a passport with a damaged electronic chip
 - not having access to an Android smartphone of the required specification

They are then faced with having to either post their identity documents to the Home Office (which they are understandably reluctant to do due to fear of the documents being lost or not returned in time for travel plans), or using one of the few scanning centres available. [One citizen’s passport has been lost](#) because, while the Home Office recommends people send their passports using ‘[Special Delivery](#)’ (a secure, tracked postal service offering compensation on loss), the Home Office returned the passport using the cheaper, less secure, untracked ‘[Second class signed for](#)’ service offering limited compensation.

- We have consistently argued that citizens must be able to use [local authorities to receive help](#) with settled status applications. There are only [50 ‘scanning centres’](#) on offer (as opposed to 418 local authorities), and for some citizens there is a 365 mile round trip to get help with scanning documents. These scanning centres charge up to £21 (Government guidance is £14). In November 2018, the Government launched its new [UKVCAS service](#), which is also able to help citizens with their settled status applications, but which charges them up to several hundred pounds depending on appointment times.
- Non-EU citizens applying for settled status must submit biometrics, and are directed to the UKVCAS website to book an appointment. One citizen told us that “the website only had 3 places to submit in central London with either no appointments available or premium appointments available at £200-£260.” He said that due to the government’s “poor planning people are still paying large amounts to remain in the country they have been living in for years (11 in my case).”

- A French journalist was one of many reporting [repeatedly receiving an error message](#) when trying to apply.
- The automated checks do not work for many citizens, even when they have been working in the UK for decades. A [senior figure in England's education watchdog](#) found his application for settled status was turned down, requiring him to manually provide evidence of his residence.
- Some [citizens are on the verge of tears](#) due their frustration of using the system, one having called the helpline 'more than 100 times'.
- The [Institute for Government issued a highly critical report](#) arguing that the 'Home Office may not be the right department to manage immigration policy after Brexit'.
- Many non-EU citizens (for example family members of British citizens who had exercised free movement rights before returning to the UK) are [not able to use the App or online service](#) to apply for settled status. Instead they must call the EU Settlement Resolution Centre (and many people are reporting that it can take up to 45 minutes for the calls to be answered) to request an application form to be sent by post. [This form is 61 pages long](#).

Pre-Settled Status vs Settled Status

- The Government is introducing [secondary legislation to limit the right to benefits](#) to holders of pre-settled status. This is problematic for citizens who are entitled to settled status but are in fact only being granted pre-settled status. Our concern is that many citizens may not realise the implications and will accept pre-settled status rather than challenging the decision. If the government [increases its student fees for EU citizens from 2020](#), it would be unclear whether citizens with pre-settled status would still be eligible for home fees.
- A Dutch child was granted pre-settled status after his application was linked to his father's application. Both his parents had been granted settled status. This despite the fact that the [government states](#) that "If your own application is successful, your child will get the same status as you". The father took it up with the Resolution Centre, and three weeks later the child was given settled status.

Similarly, [another EU citizen child was refused settled status](#) despite [linking to his EU citizen father's settled status](#).

- It appears not to be possible to **upgrade from pre-settled to settled status** currently. We have had several reports of citizens who had already applied for pre-settled status, and who now wish to upgrade to settled status because they have completed their required 5 years of residence. Either trying to do so via the App, or via the website does not work, as the system tells the applicant that their passport number is already recognised, and cannot be used again. The Home Office have admitted there is currently no option in the system to upgrade their status. This is a serious problem as citizens may require settled status for benefits purposes, and for being entitled to apply for citizenship. In the case of German citizens for example, there is a deadline beyond which they would not be allowed to have dual German-British citizenship.

Ensuring citizens apply for the EU Settlement Scheme

- A member of our outreach team reported after one meeting: ‘Long term residents are a real worry. I have spoken to a couple of them and they refuse to do anything. A lady I spoke to told me that I was mistaken and that she didn’t need to do anything. I think it is a little bit like when we all discovered the CSI issue and thought it sounded ludicrous. This is a real challenge, if people try to apply they can be helped but if people think they shouldn’t, we can’t force them.’
- An [87-year old Danish citizen](#) said “because of Brexit I had to register and I couldn’t understand why. I thought ‘this couldn’t be right’ because I’ve been here for so many years. I thought it was absolutely crazy”.
- The Home Office tweets informing EU citizens that they need to apply to the scheme have [accessibility issues for blind and deaf people](#) - their video has no audio, and the website video has no captions. There appear to be no detailed impact assessments for the scheme and outreach, and there is a concern as to how the scheme fits with the Government’s duty to comply with the Equality Act.

Delays in applications

Although the Home Office highlights [short processing times](#) for applications which require no additional information, they merely state ‘Your application may take longer to process’ in all other cases. The reports for [Private Beta 1](#) and [Private Beta 2](#) both exclude processing times for over 12% and 9% of applicants respectively, and further efforts of the3million to obtain these times from the Home Office have been unsuccessful.

There are many reports of **long delays** on the ground:

- One the3million colleague said "There are big delays for processing the settled status for non-EU citizens. People are waiting for over 3 weeks."
- An EU citizen (working as a General Practice doctor, resident in the UK for well over a decade and who wishes to remain anonymous) applied in December and had to wait for over three months before receiving the decision that settled status had been granted. Separate calls to the EU Resolution Centre yielded different results, with the last stating ‘there is a Policy Query on the application, and no time frame in which it can be solved’.
- An Italian citizen completed the passport scanning step on a phone, then while attempting to complete the application on her computer received an error message ‘There is a problem with the service please try later’. She has phoned the Resolution Centre more than 10 times, and was eventually told that there are 556 people in the same situation who are stuck in a technical problem. She was advised not to try again, as a new application with the same passport would cause problems.
- A Dutch citizen applied for and received settled status for himself, but then tried to apply for his non-EU wife, which failed with an error message. He receives a message weekly on his phone stating “EU Settlement Resolution Centre: We are sorry that you have encountered difficulties when making an application through the EU Settlement Scheme. Once this issue has been rectified, we will contact you with an update”.

The Hostile Environment

Furthermore we continue to be extremely concerned about the many thousands of citizens **who will miss the deadline for applying through no fault of their own** – and will face the UK’s hostile environment perhaps many years down the line.

- Colin Yeo, immigration and asylum barrister and editor of the Free Movement website, explains how the [hostile environment harms vulnerable men, women and children](#).
- The [Public Accounts Committee published a report](#) warning that the Home Office’s ‘systemic failure’ to keep accurate records could place many EU citizens at risk.
- [Experts from the Law Society and from the Citizens Advice network agreed](#), saying that EU nationals who miss the deadlines face a major threat to their rights.
- [Legal experts and child rights organisations](#) have expressed grave concerns that thousands of children of EU nationals may become undocumented immigrants following Brexit.
- A report ‘[Uncertain futures](#)’ was published by [Coram](#), the Children’s Legal Centre, which highlights many issues including insurmountable documentary barriers.
- The High Court has ruled that the [Home Office’s ‘right to rent’ scheme is discriminatory](#) and breaches human rights laws. However, the [Home Office has rejected the judge’s findings](#) and said it would appeal the ruling. As mentioned in earlier newsletters, the [Residential Landlords Association stated](#) that without EU citizens receiving physical proof of their status, “there is a very real danger of the repeat of the difficulties caused for many in the Windrush generation who were in the country legally but unable to easily prove it”.

Data Privacy and Protection

- In March, the [Brexit Civil Society Alliance published a report](#) raising their concerns about data privacy, and the opaque manner in which HMRC/DWP data is processed by the Home Office.
- The Home Office is [refusing to reveal how it will use data collected from EU citizens](#) through the EU Settlement Scheme.
- Within days of the immigration minister apologising for [500 private email addresses being shared](#) in relation to the Windrush compensation scheme, the Home Office had to apologise for [sharing 240 personal email addresses of EU citizens](#) seeking settled status.
- The human rights organisation Liberty expressed concern that the Home Office plans to [share people’s status in real time with outside organisations](#). The Home Office has not provided information about who will be able to access the information. Liberty said ‘The secrecy over it is astonishing and deeply sinister’.

Publications scrutinising the EU Settlement Scheme

- On the 27th February, the [House of Lords European Union Committee sent a letter](#) to the Home Secretary, raising areas of concern:
 - Awareness of the scheme
 - Assistance with applications
 - Physical proof of status
 - Transfers from pre-settled to settled status

- On the 27th February, [the3million published its third update of its Questions to the Home Office on 'Settled Status'](#) document. These questions were promised to be answered by the Immigration Minister by June 2018, but to date have not been. In a meeting with the Home Office on the 1st April, the3million were informed that the majority of questions had been answered by a 'Frequently Asked Questions' document. We have requested a copy of this FAQ document, however we have not received it to date.

- On the 26th March, the Joint Committee on Human Rights published its [report on the proposed Immigration Bill](#). It mirrors many of the [grave concerns that the3million has been raising](#):
 - As it stands, the bill removes the legal basis of EU citizens' rights without providing adequate replacement in law.
 - It is inadequate to offer weak protections in policy statements or secondary legislation which are changed regularly.
 - The EU Settlement Scheme creates problems relating to the lack of physical proof of status.
 - The consequences for those who miss the deadline for applications.
 - Vulnerable people having difficulty in accessing the EU Settlement Scheme.
 - Irish EU citizens are at risk of losing rights they acquired under EU law.

- the3million has produced a [paper explaining why physical proof of status](#) is essential.