

The Committee on the Future Relationship with the European Union has launched an overarching inquiry looking at all aspects of the negotiations between the UK and EU, which began in Brussels the week of 2 March 2020.

the3million have been invited to supply general responses to the Committee's call for evidence, as published on 4 March, as well as answering a series of specific questions.

In these answers, we make references to correspondences with the UK Government, and previous submissions to Committees. While preparing this submission, we have also been preparing, along with **British in Europe**, a joint response to the European Commission's Guidance Note on Citizens' Rights¹, which was published on 12 May 2020. As soon as our response is finalised, we will forward it to the Committee on the Future Relationship with the European Union.

Summary

The negotiations of the future relationship are impacted by how well the implementation of the Withdrawal Agreement is proceeding. This includes the Citizens' Rights part of the agreement. We have concerns about the risk of politicising people and their rights in this sensitive time.

The Joint Committee between the UK and EU relating to the agreement is an opportunity to resolve disputes over interpretation. We are concerned about the engagement of the parties with organisations representing those affected. We call upon the specialist committee to allow for meaningful input into their sessions as set out in our correspondence. [paras. [4-7](#), [99-104](#)]

The experience of EU citizens securing their rights has been varied. The evidence highlights large numbers of people applying but there are concerns about gaps in the data, poor transparency and the risks to those that do not apply in time. There are also significant procedural concerns about the UK's compliance with article 18(1) of the agreement. [paras. [8-26](#)]

EU citizens have experienced increased discrimination from public bodies, businesses and landlords. There have been cases of difficulties with access to work, benefits and other help. There are growing concerns these instances will be exacerbated by the ending of the transition period and the formal ending of freedom of movement. [paras. [27-30](#)]

The effects of the hostile environment cannot be understated, and these will only be exacerbated once the deadline to apply to the EU Settlement Scheme has passed. The risks to those who do not apply in time are serious. We are concerned that the government has not done enough to mitigate those risks. [paras. [31-33](#)]

¹ https://ec.europa.eu/info/publications/guidance-note-citizens-rights_en

Issues relating to accessing rights and discrimination have risen because of COVID-19, in particular EU citizens inability to access help from the state via welfare benefits and housing. [paras. [34-46](#)]

We have made a series of specific observations and recommendations relating to acquisition, preservation and access to rights under the Withdrawal Agreement. These include:

- Knowledge and education about EU citizens' rights both for EU citizens but the public generally; [paras. [87-89](#)]
- Technical and legal issues relating to implementation and access to rights; [paras [55-86](#)]
- Concerns about the UK and EU diverging in opinion on fundamental points of interpretation around implementation [paras. [47-54](#)];
- Resources to support citizens in acquiring and exercising their rights for the immediate and long-term future; and [paras. [90-93](#)]
- A review of the Hostile Environment [paras. [94-95](#)]

Ultimately, we do know the numbers of EU citizens who must apply by the end of the deadline next year. Hundreds if not thousands of people could be at risk of missing the deadline and not accessing their rights. Only through good legal safety nets/passages to status, support from public bodies and civil society in addition to an excellent public communications campaign will people stand the best chance of acquiring the rights they are entitled to. At present, these measures are lacking, and we urge the Government to do more.

Please find below our response to the relevant general questions.

G1. How will the implementation of the Withdrawal Agreement interact with the negotiations on the future relationship?

1. The Withdrawal Agreement (WA) protects the rights of millions of EU and UK citizens and family members² who are living in the UK and EU respectively before the end of the Transition Period. Acquiring status through the EU Settlement Scheme (EUSS) will be the main way to access these rights for EU citizens in the UK. It is therefore vital that the Scheme works for everyone and that the rights provided are accessible and compliant with the WA. It is also vital to ensure that the rights the agreement protects are correctly transposed into UK law and applied correctly with the appropriate safeguards.
2. Trust will be a central issue in continuing negotiations, and there is therefore a danger that the progress of either party in implementing the WA is politicised. British in Europe and the3million have been clear throughout that we oppose the use of citizens' rights as a "bargaining chip" at any stage in the negotiations.

² We use EU citizens to include EU, EEA and Swiss citizens and their family members.

3. It should be noted that the European Commission has commenced fresh infringement proceedings against the UK.³ The content of the formal letter is unknown, but according to the press release it would appear to contain numerous allegations of breaches. It is interesting to note that the UK has not had infringement proceedings issued against it in relation to citizens' rights since 2011/2012⁴. We appreciate the Commission taking action on a portfolio of issues and given their significance to the Withdrawal Agreement it is important. We hope that the Commission or the UK will be able to disclose these concerns so that parliament and organisations like the3million can contribute to the discussion.

G2. What is the role of the Joint Committee, and what other mechanisms will be available for the UK and EU to resolve disagreements?

4. During the course of the negotiations on the future relationship, the safeguarding measures set out in the WA have been established. This includes the Joint Specialist Committee (WA Part Six, Title II, Article 165) which is set up to encourage parties to resolve disputes around implementation of the citizens' rights part of the WA.
5. On 30th March 2020, the3million and British in Europe wrote⁵ to Mr Gove and Mr Šefčovič to request expert observer status on the Specialist Committee on citizens' rights. Mr Šefčovič replied⁶ to us on 30 April emphasising that he valued our expertise and professionalism and acknowledged the added value of continued interactions with our organisations and indicating that this should be kept in mind when the co-chairs organise future meetings. On 16th May, the Minister for the European Neighbourhood and the Americas replied⁷ to us, equally stating that she valued our contribution to citizens' rights, and that "the need to provide certainty and reassurance to UK nationals in the EU and EU citizens in the UK is an ongoing and enduring priority for us all during the transition period and beyond", and that she would therefore like to maintain contact with us. She proposes the establishment of a separate forum to discuss implementation issues.
6. However, while such words are welcomed by our organisations, we stress that we would like meaningful input into the Specialist Committee.
7. The other mechanisms available to those in scope of the agreement enforcing their citizens' rights are the appeal mechanics (with the option for UK courts to make a referral to the CJEU) and the Independent Monitoring Authority. The latter will provide reports to the Committee which will inform on progress and issues with implementation. During the transition period, the Commission maintains its role as the Guardian of existing EU law. We hope that the Commission has been successfully representing the issues of implementation with both existing EU law and the terms of the agreement.

³ https://ec.europa.eu/commission/presscorner/detail/EN/INF_20_859

⁴ https://ec.europa.eu/commission/presscorner/detail/EN/IP_12_417

⁵ http://www.t3m.org.uk/t3m_BiE_SpecialisedCommittee

⁶ http://www.t3m.org.uk/reply_Sefcovic_SpecialisedCommittee

⁷ http://www.t3m.org.uk/reply_FCO_SpecialisedCommittee

We now provide answers to the specific questions put to us, relating to UK citizens in the EU, which were as follows:

1. What has been the experience of EU citizens in the UK securing their rights through the EU Settlement Scheme so far?
2. Have public bodies, businesses and landlords in the UK continued to treat EU citizens in the same manner as during EU membership?
3. What has been the impact of COVID-19, if any, on securing the rights of EU citizens currently living in the UK?
4. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?
5. Do you have any estimates for how many EU citizens in the UK have yet to apply to the EU Settlement Scheme?
6. Is there a role for civil society representatives of EU citizens in the UK to input into monitoring of the Withdrawal Agreement? If not, how might this be addressed?
7. Do you have any other concerns for EU citizens in the UK regarding the remainder of the transition period up until the June 2021 deadline for applications?

1. What has been the experience of EU citizens in the UK securing their rights through the EU Settlement Scheme so far?

a. Refusals, processing times and incorrect assignment of pre-settled status

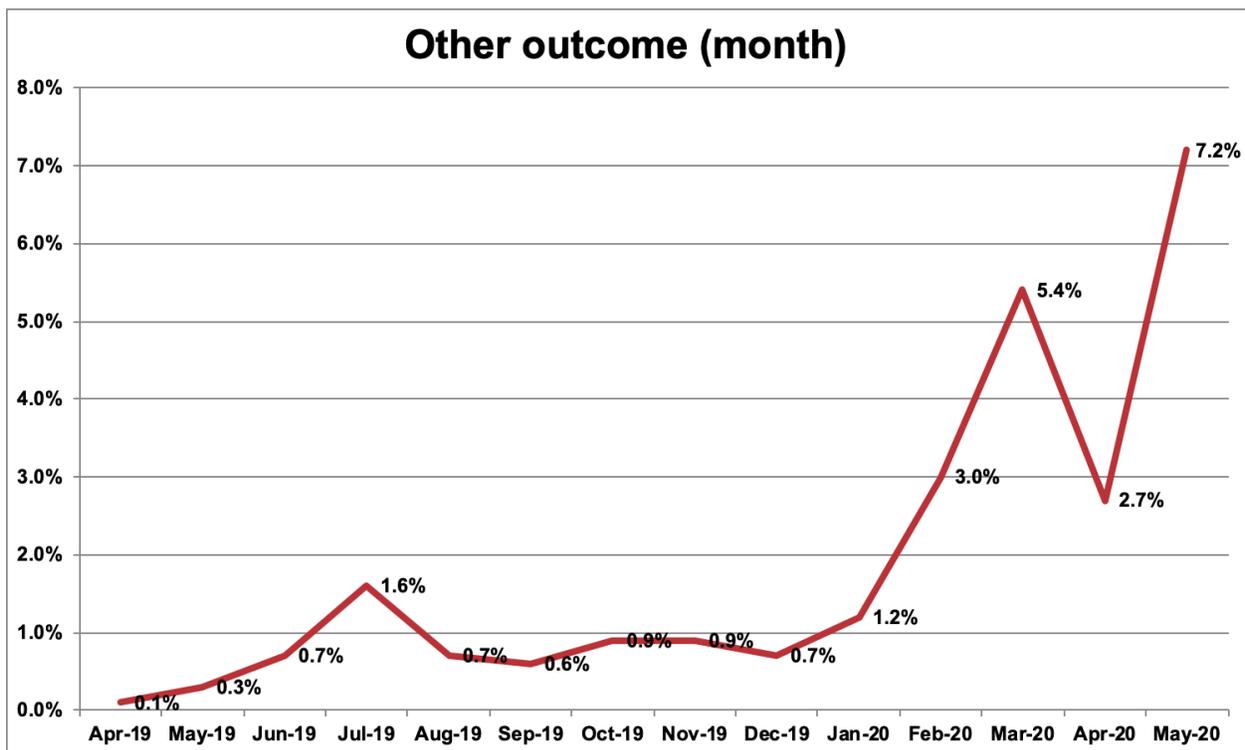
8. Since it opened, the UK government repeatedly stressed the high volume of applications received under the EU Settlement Scheme (EUSS). Until Brexit day, on 31 January 2020, the government also repeated⁸ that nobody was being refused status on eligibility grounds (the ability to evidence residence in the UK). However, in the three months since February 2020, there were 900 such refusals⁹ despite the number of all decisions under the EUSS decreasing substantially during the same period. Recently published details¹⁰ of one such refusal show that, despite being in regular contact with the Home Office, an applicant to the Scheme was kept waiting for seven months for a negative decision and received incorrect advice while their case was pending.

⁸ <https://www.theguardian.com/politics/2019/aug/30/eu-citizens-uk-settled-status-alarm>

⁹ <https://www.gov.uk/government/statistics/eu-settlement-scheme-statistics-may-2020>

¹⁰ t3m.org.uk/HASC_submission_2020420

9. This adds further concern over the quality of advice provided and decisions made under the EUSS, alongside previously reported cases of the wrong status granted. At the3million we have been in contact with a number of applicants who should have been granted the much more secure¹¹ settled status but were granted the temporary pre-settled status instead¹². After one such case was reported by the news media¹³, the applicant was contacted by the Home Office within three days and their status was upgraded from pre-settled to settled with no additional documents requested or supplied. It is not clear how many applicants may have received lesser status than they are eligible for. However, an inspection report¹⁴ by the Independent Chief Inspector of Borders and Immigration (ICIBI), showed that between April and June 2019 as many as 7,690 applicants sought settled status under the EUSS but were granted pre-settled status instead. Overall, only 57% of applicants were granted settled status by end May 2020, and 41% were granted pre-settled status¹⁵. Finally, there has been a sharp rise in “other outcomes” when applications are void, withdrawn, or invalid. While such decisions generally amounted to around 1% of all completed applications between April 2019 and January 2020, this ratio has reached over 7% in May 2020, as shown on the graph below.



¹¹ <https://www.the3million.org.uk/presettled-vs-settled>

¹² blogs.lse.ac.uk/brexit/2020/05/06/there-are-cracks-in-the-eu-settlement-scheme-who-will-fall-through-them/

¹³ <https://www.theatlantic.com/international/archive/2019/10/britain-eu-nationals-brexit/600721/>

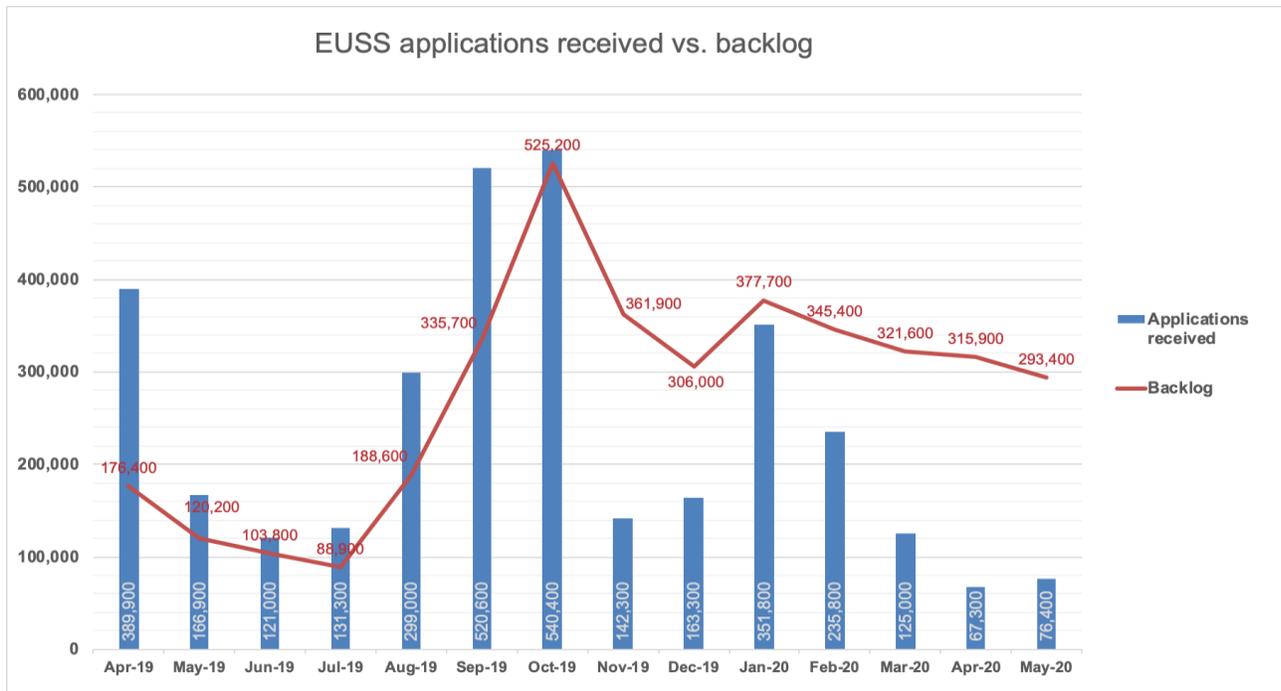
¹⁴ www.gov.uk/government/publications/an-inspection-of-the-eu-settlement-scheme-april-2019-to-august-2019

¹⁵ The3million’s analysis of EUSS statistics: <https://www.gov.uk/government/collections/eu-settlement-scheme-statistics>

10. The importance of the difference between pre-settled and settled status has come into sharp focus during the Covid-19 crisis, as the Government insists that pre-settled status is not a 'right to reside' for the purposes of accessing benefits - a view that the3million disputes - see sections 2(b) and 4(a) below.
11. There is concern about the length of time an application will take to process, as well as the Home Office's reporting and messaging about waiting times. As of 25th June 2020, applicants are informed via the Home Office website that "it usually takes around 5 working days for complete applications to be processed if no further information is required, but it can take up to a month¹⁶." The website also details when cases may exceed the stated five-day timeframe. However, some of these explanations are vague, for example applications may take longer if "we [i.e. the Home Office] need to request more information from you." They are also listed alongside explanations such as "you have a relevant criminal record" which are alarming to many applicants.
12. There are also substantial discrepancies and overall lack of clarity in how the Home Office reports processing times. The ICIBI inspection report¹⁷ states in point 6.32 that in July 2019 the Home Office maintained that most applications using the "chip checker" for ID verification would be processed within 1 to 4 days. However, it also notes in the week commencing 8th July 2019 "the overall average processing time for all types of EUSS applications" was approximately 23 days. It therefore appears the reporting of processing times is built around the best-case scenario and a specific sub-group of EUSS applicants (those with a biometric ID document and where no additional documents are required following the automated checks), rather than average processing times for all applicants. This manner of reporting and messaging on processing times inflates expectations and limits transparency of the Home Office reporting on the time it takes to process EUSS applications.
13. Despite the Home Office's assurances that EUSS applications are processed efficiently, the number of cases waiting to be completed remained at around 300,000 at the end of each month since September 2019. Although until February 2020 this number corresponded with relatively high volumes of applications, the backlog has not been cleared when the volume of applications dropped substantially. This trend is shown on the graph below.

¹⁶ <https://www.gov.uk/government/publications/eu-settlement-scheme-application-processing-times/eu-settlement-scheme-pilot-current-expected-processing-times-for-applications>

¹⁷ www.gov.uk/government/publications/an-inspection-of-the-eu-settlement-scheme-april-2019-to-august-2019



14. We regularly hear stories from people who have experiences of delays in decisions being made on their applications. As an example, here are a couple of quotes from people expressing such concerns:

15. *"Eventually, settled status confirmation has come through my email today after 6 months. Feeling relieved massively though going through mixed feelings as having to prove my right to stay here after 25 years in this country. I had to sort of nudge Home Office a couple of times regarding my case. Keep enquiring about your own status!"* Marghe

16. EEA Permit expired, waiting on pre-settled but new rental needs proof. South African husband of Dutch wife who has pre-settled:

"I am in such a hard place. Everything shut down and my EEA permit has expired and still no result from pre-settled status. I phoned and they said everything is in order, I must just wait for the processing which is highly delayed. All web sites say that if your permit expires while pre-settled application is in progress you are not considered 'illegal' and may continue with all benefits of a valid permit. But this is not enough for the agents, they want a Visa, permit or passport." Charly

b. Lack of transparency in the Home Office reporting

17. The above mentioned ICIBI report¹⁸ was completed in September 2019 but published only in February 2020. The Home Office delayed its publication for 21 weeks even though there is a statutory requirement to publish inspection reports within eight weeks.
18. While the report shows the Home Office is able to quantify the number of applicants who sought settled status, but were granted pre-settled instead, a request under the Freedom of Information Act asking specifically for this data was refused in November 2019, i.e. after the ICIBI report was completed but before it was published. The Home Office cited the cost exemption, i.e. section 12(1) of the Act.
19. In point 6.83 the ICIBI report states the EUSS casework system ‘reports data on a daily basis’ and ‘provides “snapshots” showing, for example, a breakdown of applicants by age range, and by nationality and gender, and the number of days taken to complete cases.’ However, when asked for a breakdown on applications and outcomes by gender under the Freedom of Information Act in November 2019 the Home Office again refused to provide the information citing the cost exemption under section 12(1) of the Act. The refusal stated that ‘due to gender not being a mandatory field on EU Settlement Scheme applications (...) any request involving the gender breakdown of EUSS applications is likely to exceed the cost limit.’
20. Equalities impacts of the Settlement Scheme are currently difficult to assess because of lack of data, refusals to disclose data, and also because the Home Office refused to engage on these topics or release its Policy Equality Statement (PES) for the EUSS. The Home Office has now committed to disclosing its PES, in response to this being one of the recommendations (4.3) of the ICIBI report. It should be noted that over a year into the scheme’s full launch the PES does not appear to have been published.
21. Finally, while repeat applications to the EUSS have been allowed since August 2019, for example to ‘upgrade’ status from pre-settled to settled, the Home Office still counts such applications towards the totals in its monthly and quarterly statistical reports. This affects transparency of these statistics in two ways. First, the number of those who applied to the EUSS is unclear, as the headline number refers to the number of applications rather than applicants. Second, the outcomes of repeat applications from those seeking to ‘upgrade’ their status are unclear as the Home Office does not report those figures.

c. Issues of implementation and application procedure and Certificates of Application

22. the3million continue to receive complaints of people having difficulties with lodging applications to the EUSS and receiving timely decisions. We have also had reports of delays in decision making but also the issuance of Certificates of Application. Article 18(1)(b) requires that these be issued immediately at the point of application. We have received reports of delay of receipt for days and in some cases up to weeks/months until they have been issued. The certificate plays a pivotal part in the application process

¹⁸ <https://www.gov.uk/government/publications/an-inspection-of-the-eu-settlement-scheme-april-2019-to-august-2019>

because it evidences that application has been submitted and that the applicant has all the rights under the withdrawal agreement until a decision is made.

d. Status updates with new identity documents

23. We are also seeing issues caused by EU Settlement Scheme status updates with new identity documents. When someone renews their passport or identity card, they are obliged to inform the Home Office so that the EU Settlement Scheme status can be updated. When updating the status with a new identity document, people are required to send their new passport or identity card to the Home Office through the post. Although the identity documents are generally returned in a timely fashion, the actual update of the status with the new identity document details is taking months to complete.
24. Since access to the status is specifically linked to the identity document, this will leave thousands of people in the difficult situation of not being able to prove their status with their new identity document while their update is pending. Once the Hostile Environment policies legally start to apply to EU citizens next year, this will cause great problems.

e. Data sharing concerns

25. When citizens apply to the scheme, they have no choice but to accept a Privacy Notice¹⁹ which informs that the applicant's data can be shared with any number of public, private or charity organisations in the UK or abroad. A Freedom of Information Act request²⁰ to disclose these organisations was refused, claiming to do so was against the public interest, and that "the disclosure of such information will make the application system vulnerable to malicious attacks and hamper our ability to effectively operate immigration control." Coupled with the fact that the Data Protection Act 2018 includes an 'immigration exemption'²¹, it is no surprise that a very significant minority of EU citizens are unwilling to apply to the scheme. In the largest survey²² of EU citizens on the EUSS to date, over 35% of those who had not yet applied to the scheme gave as their reason that they had concerns over data protection.
26. Furthermore, 89% of respondents in the same survey indicated that they were unhappy with a digital-only status. This is not only due to fears of discrimination by employers and landlords (see Section 2), but also due to anxiety over being the only group of citizens who have no choice but to have their every interaction with service providers, employers and landlords tracked and recorded.²³

¹⁹ <https://www.gov.uk/guidance/eu-settlement-scheme-how-we-use-your-personal-information>

²⁰ https://www.whatdotheyknow.com/request/settled_status_app_data_privacy#incoming-1285781

²¹ <https://www.openrightsgroup.org/press/releases/2019/open-rights-group-and-the3million-seek-to-appeal-immigration-exemption-judgment>

²² <http://www.t3m.org.uk/SettledStatusSurvey>

²³ <http://t3m.org.uk/DigitalOnlyStatus>

2. Have public bodies, businesses and landlords in the UK continued to treat EU citizens in the same manner as during EU membership?

a. Discrimination now

27. Our survey of EU citizens' experience of the settlement scheme in December 2019, the largest of its kind, indicated that discrimination against EU citizens is already beginning to happen: 10.9% of respondents said they have already been asked for proof of settled status, even though freedom of movement is still in force and this is not yet required²⁴.

28. Some quotes from the above-mentioned survey:

"Applying for work recently they would not go ahead with the offer unless my application has had a decision."

"I'm a freelance IT contractor and an agent from an employment agency asked for it. I challenged this request and did not hear from him since..."

"The mortgage advisor kept referring to my status as if it was a deadly disease: 'Because of your situation', 'due to your special case'; kept doing it until I squared him up. He had no clue about the settled scheme and thought we couldn't get a mortgage or get one at a super high rate!"

b. Access to benefits for those with pre-settled status

29. Prior to July 2019, those with pre-settled status granted under the EU Settlement Scheme were able to satisfy the 'right to reside' requirement. However, the UK government introduced Regulations²⁵ which explicitly reversed that. the3million challenge²⁶ this reading of the Withdrawal Agreement and wrote to the Home Secretary and Secretary of Work and Pensions²⁷. The Secretary of Work and Pensions reply²⁸ re-states their view that pre-settled status is not a right-to-reside.

c. Digital-only status

30. In the same survey, 89% of respondents say they are unhappy about lacking the option for physical proof of status under the EU Settlement Scheme. EU citizens will have no physical documentation, having to rely instead on a digital-only status to negotiate the 'hostile environment'. This is certain to result in discrimination against EU citizens, not only for employment opportunities but also when

²⁴ <http://www.t3m.org.uk/SettledStatusSurvey>

²⁵ <https://www.legislation.gov.uk/uksi/2013/376/regulation/9>

²⁶ http://www.t3m.org.uk/PreSettledStatus_UniversalCredit

²⁷ http://www.t3m.org.uk/t3m_letter_HO_WA_PreSettledStatus

²⁸ http://www.t3m.org.uk/reply_HO_DWP_WA_PreSettledStatus

looking for accommodation²⁹. We would like to recall here the mystery shopping exercise done by JCWI³⁰ which showed: “Out of 150 mystery shopping enquiries from prospective tenants who asked landlords to conduct an online check, 85% received no response. Only 12% of enquiries received a response that might invite a follow up, such as a phone call or a viewing. Only three responses explicitly stated that the landlord was willing to conduct an online check.”

d. Future discrimination

31. We anticipate that problems of discrimination will intensify during the “grace period” after the end of freedom of movement rights until the application deadline on 30 June, while a significant number of people have yet to apply for proof of status. Even though the Government have indicated that employers and landlords should still treat EU Passports and Identity Cards as valid proof of right to work³¹ and right to rent³², we have grave concerns that this message will not reach the majority of employers and landlords, who will naturally have been hearing that freedom of movement has come to an end. Very clear and effective communication is needed to employers and landlords that EU passports are sufficient to prove status during the grace period.

e. Lawful status during ‘grace period’

32. It will be key for the Government to clarify how it intends to ensure that people who are eligible for status, but have not yet applied for it, will nevertheless have a lawful status³³. Simply suspending hostile environment policies of right to rent and right to work is not sufficient; the Withdrawal Agreement clearly necessitates that people eligible for, but without status under, the Settlement Scheme have a lawful status in the UK. Since the Immigration Bill intends to remove the EEA Regulations which have hitherto given EU citizens and non-EU family members that lawful status, a replacement status must be legislated for. The Government has not yet indicated any details around this legislation nor any timetable for its implementation.
33. The Government has made efforts to communicate the need for EU citizens to apply to the scheme with some general communications to employers. There is a significant need for the Government to communicate more widely to the public (general public, landlords, hospitals, local authorities etc.) the new immigration system and how EU citizens with status and rights fit within it.

²⁹ http://www.t3m.org.uk/EUSS_PhysicalDocuments

³⁰ <https://www.jcwi.org.uk/passport-please>

³¹ <https://www.gov.uk/check-job-applicant-right-to-work>

³² <https://www.gov.uk/check-tenant-right-to-rent-documents/how-to-check>

³³ http://www.t3m.org.uk/ImmigrationBill2020_CommitteeBriefing

3. What has been the impact of COVID-19, if any, on securing the rights of EU citizens currently living in the UK?

34. We are conscious that the implementation of the agreement is taking place in the extremely challenging and unprecedented context of the global COVID-19 pandemic, and that it is impacting every part of government in the UK and EU countries. It is also impacting every part of EU citizens' lives and, potentially, their ability to secure rights under the agreement.
35. the3million submitted evidence to the Home Affairs Committee in April on the impact of COVID-19, which can be seen here: www.t3m.org.uk/HASC_submission_20200420 .

Briefly summarising the issues that we raised there:

a. Absences risking eligibility to the EU settlement scheme

36. In recent months, many countries have introduced unprecedented travel restrictions due to the Covid-19 crisis. For EU citizens who are currently out of the UK, when they eventually return to the UK, many will inadvertently have been absent from the UK for more than six months. An absence from the UK of more than six months in any twelve-month period breaks a citizen's continuity of residence for the purposes of applying for status under the EU Settlement Scheme.
37. This will affect citizens regardless of their current status under the EU Settlement Scheme: those with pre-settled status (who may be prevented from later obtaining full settled status and therefore face an unavoidable dramatic loss of rights unless legislation is changed), those who have yet to apply to the scheme, and those with settled status who intend to apply for British citizenship. The Government should provide concessions for those who have inadvertently broken their continuity of residence through no fault of their own and confirm this in published guidance. the3million wrote to the Home Secretary³⁴ highlighting these and other issues and asking three specific questions.
38. Our HASC submission also highlighted the difficulty many EU citizens faced in returning to their homes in the UK, as they were not considered eligible for repatriation flights.

b. Effects of the "hostile environment" on EU citizens

39. As highlighted in section 2(b) above, EU citizens with pre-settled status were unable to access social security unless they could demonstrate an alternative right-to-reside. The COVID-19 crisis brought this into sharp focus. A newspaper article³⁵ from 27th April highlights the plight of many citizens working in the hospitality sector including from the EU are facing destitution: "Most of those pushed into

³⁴ http://www.t3m.org.uk/t3m_letter_HO_EUSS_WA

³⁵ <https://www.theguardian.com/society/2020/apr/27/london-coronavirus-sacked-hospitality-workers-sleeping-rough>

homelessness had insecure jobs and precarious living arrangements, and no ability to navigate the benefits system or wait for payments.”

40. Being able to access social security is particularly urgent for those who are newly applying for welfare, social security and housing support in their communities. At present EU citizens have to prove the right to reside for Universal Credit, other benefits and housing support.
41. Given that over 40% who applied to the settlement scheme received pre-settled status / limited leave to remain, they will continue to need to show that they are economically active (exercising treaty rights in accordance with EU law) to qualify for benefits and support.
42. By far the most common issue amongst those contacting the3million for our recent survey on the effects of Covid-19³⁶ was being refused Universal Credit or other support, in particular for the self-employed who lost their jobs because of the pandemic. EU citizens are facing destitution and homelessness despite having entitlements to support and social assistance under the Withdrawal Agreement.

c. Closures of EU Settlement Resolution Centre and other offices

43. There was a temporary closure of the EU Settlement Resolution Centre, telephone advice lines, local scanning centres and the ability to send in documents. This had a dramatic impact on applications received and applications decided³⁷. There is still a large backlog of over 300,000 applications.
44. The closures were especially problematic for people unable to do straightforward applications and requiring appointments - such as:
 - Scanning centres - those who do not have access to the Identity App, or those whose identity document won't successfully scan
 - UKVCAS appointments run by Sopra Steria - almost all non-EU family member applicants. Although the service is now resumed, no free appointments are available, and people are asked to pay £110 for appointments
 - Paper applications - People making more complex applications such as Chen, Surinder Singh and Zambrano applications

d. Outreach on EU Settlement Scheme

45. The Government reiterates that there is a year left before the 30 June 2021 deadline, and emphasises the high number of applications already received. While we agree that it is very positive that so many people have applied to the scheme, our continued concern is about those not reached in time. No registration scheme anywhere worldwide has ever reached 100% of its target audience, and an

³⁶ t3m.org.uk/HASC_submission_2020420

³⁷ Tweet by t3m researcher: <https://twitter.com/jablonow/status/1263399284915023874>

extremely important added problem for the EUSS in the UK is that it is not known how many people need to apply³⁸ (see Section 5 below).

46. There will be many citizens who will simply not have heard about the scheme in time for the deadline, so every cancelled or delayed outreach activity will contribute to this. The Home Office's existing public advertising on e.g. bus stops will have been less far effective. The organisations funded by the Home Office to provide support to vulnerable and hard to reach EU citizens has had to cancel physical outreach events.

4. Are there any administrative, legal, technical, financial or practical issues outstanding and what action might be taken to resolve them and by whom?

a. The interaction between status granted under the EU Settlement Scheme and rights under the Withdrawal Agreement

47. The Withdrawal Agreement (WA) gives the UK (and EU Member States) the choice of securing EU (and British) citizens' residence rights through a constitutive (WA Article 18(1)) or declaratory (WA Article 18(4)) scheme. The UK has chosen the constitutive approach and has implemented WA Article 18(1) via the EU Settlement Scheme (EUSS).
48. Under the EUSS, a residence status (pre-settled status or settled status) is given to anyone who can demonstrate residence, regardless of testing of eligibility criteria under the Citizens' Rights Directive 2004/38/EC (CRD).
49. The European Commission have confirmed that anyone granted EUSS status has access to WA rights.
50. This was done in a letter³⁹ to the3million which concludes "All EU citizens who are granted (pre-)settled status by the United Kingdom in implementation of Article 18(1) of the Withdrawal Agreement are beneficiaries of the citizens' rights part of the Withdrawal Agreement and can thus rely on the rights provided for in Part Two of the Withdrawal Agreement."
51. It was also confirmed in the EC Guidance Note⁴⁰ which states: "*the 'source' of the residence status and entitlements stemming thereof is the decision of national authorities granting the status*". The Guidance Note also states that "paragraph (1)(q) of Article 18 requires that the residence document includes a statement that it has been issued in accordance with the Agreement (so that their holders can be distinguished as beneficiaries of the Agreement)", and indeed all holders of settled status and pre-settled status are informed (either online when checking their status, or on their EUSS Biometric

³⁸ <http://www.t3m.org.uk/EUSSReporting>

³⁹ http://www.t3m.org.uk/EC_reply_t3m_WAPersonalScope

⁴⁰ https://ec.europa.eu/info/publications/guidance-note-citizens-rights_en

Residence Card for non-EU family members) that their status is “Issued under the EU Exit Separation Agreements”.

Action to be taken:

52. The UK Government should confirm unequivocally that **all** holders of status under the EU Settlement Scheme can rely on the rights provided for in Part Two of the Withdrawal Agreement.

b. Access to equal treatment by holders of pre-settled status

53. As set out in 2(b) above, and briefly mentioned in 1(a) and 3(b), the UK Government does not treat pre-settled status as a right to reside for access to social security and other benefits. For a summary of relevant links and correspondence on this issue:

- UK Government regulations⁴¹ stating pre-settled status is not a right to reside
- Letter from the3million⁴² to Secretary of State for Home Department and Secretary of State for Work and Pensions
- Reply from Secretary of State for Work and Pensions⁴³

Action to be taken:

54. The UK Government should reverse the regulations such that pre-settled status under the EU Settlement Scheme is a right to reside.

c. Inadvertent absences due to COVID-19

55. As set out in section 3(a) above, forced absences can create problems due to the definition of continuity of residence in the immigration rules. We recently wrote to the Home Secretary⁴⁴ asking for specific changes to the legislation to deal with this and requesting a reply by 10 July.

56. Summarising, absences breaking continuity of residence (more than a total of 6 months in a year) can cause problems for:

- Those without EUSS status - people may have been eligible for full settled status but due to broken continuity of residence may now only receive pre-settled status
- Those with pre-settled status - people may be prevented from obtaining settled status before expiry of their pre-settled status unless they think to apply for a new pre-settled status before the end of the transition period

⁴¹ <https://www.legislation.gov.uk/uksi/2013/376/regulation/9>

⁴² http://www.t3m.org.uk/t3m_letter_HO_WA_PreSettledStatus

⁴³ http://www.t3m.org.uk/reply_HO_DWP_WA_PreSettledStatus

⁴⁴ http://www.t3m.org.uk/t3m_letter_HO_EUSS_WA

- Those with settled status and wishing to apply for British citizenship - the absence rules are stricter for citizenship applications and therefore people could be prevented from naturalising for several years

Action to be taken:

57. Although there have been some verbal comments that the Home Office will be flexible on such absences, the Home Office must confirm this in published guidance both for the EU Settlement Scheme and naturalisation applications.

d. Difficulties around naturalisation applications of EUSS status holders

58. Home Office naturalisation policy guidance was recently updated⁴⁵ to make clear that residence before the grant of settled status will be tested to see if the applicant was exercising treaty rights during the entire relevant period. This means that people can be refused for not having had Comprehensive Sickness Insurance (CSI) for periods when they were not economically active. Therefore despite Theresa May having specifically written in her open letter to EU citizens in October 2017 that CSI was no longer required, it is now coming back to haunt them in naturalisation applications. Further background details can be read in our briefing⁴⁶ on the issue. We raised this issue in our aforementioned recent letter to the Home Secretary⁴⁷.

Action to be taken:

59. Legislation should be changed such that periods before the grant of status under the EU Settlement Scheme cannot be considered to be in breach of immigration rules.

e. EU citizens with Settled Status who naturalise and are denied family reunion rights

60. Another obscure trap that EU citizens may inadvertently fall into if they succeed in naturalising is losing the right to be joined by family members (for example an elderly parent), because of the construction of the Immigration Rules. To sponsor a non-EU family member, dual UK-EU nationals still need to have a right of permanent residence or be economically active in accordance with the old system, even if they have already secured settled status⁴⁸. Before naturalisation, they had this right without question, but after naturalisation they may fall outside the definition of a 'relevant naturalised British citizen'. This issue was also raised in our recent letter to the Home Secretary⁴⁹.

Action to be taken:

⁴⁵ <http://www.gov.uk/government/publications/naturalisation-as-a-british-citizen-by-discretion-nationality-policy-guidance>

⁴⁶ http://www.t3m.org.uk/CSI_citizenship

⁴⁷ http://www.t3m.org.uk/t3m_letter_HO_EUSS_WA

⁴⁸ <https://europestreet.news/how-settled-status-can-become-a-trap-for-non-eu-family-members-of-dual-eu-british-citizens/>

⁴⁹ http://www.t3m.org.uk/t3m_letter_HO_EUSS_WA

61. The definition of ‘relevant naturalised British citizen’ must be changed in the Immigration Rules to include **all** EU citizens who naturalised after exercising free movement (i.e. all ‘Lounes’ dual nationals), regardless of their previous or subsequent economic activity.

f. Dual EU/UK nationals evidencing their Withdrawal Agreement rights

62. The WA Guidance Note clarified that ‘Lounes’ dual UK-EU nationals (those who exercised free movement rights before naturalising) are covered by the WA but it does not provide advice as to how dual nationals evidence that right and status. These dual nationals are unable to apply for status under the EU Settlement Scheme, since they are British citizens and the UK Government assert that British citizens cannot also hold an immigration status. However, it is crucial that these citizens are able to prove these rights, for example when claiming family reunion rights, or when proving eligibility for EHIC cards. Once again, we raised this issue in detail in our aforementioned recent letter to the Home Secretary⁵⁰.

Action to be taken:

63. The UK Government to define a process whereby Lounes UK-EU dual nationals can obtain an Article 18(1) document to prove their rights under the Withdrawal Agreement.

g. Expiry of pre-settled status

64. People who are granted pre-settled status are informed that their status expires after five years, and that they must re-apply for full settled status within those five years once they are eligible.

65. This creates an individual cliff-edge for everyone with pre-settled status; if they do not apply in time, they will lose their lawful status in the UK. There are many examples of devastating consequences for (non-EU) people who currently do not renew their limited leave to remain in time.

66. However, we query whether this is compliant with Article 13(4) of the Withdrawal Agreement, which states that residence rights may not be lost other than as provided for in the Withdrawal Agreement. Other than decisions to expel a person from the UK on public policy, fraud or other grounds, there is no ground to restrict someone's rights by way of an expiry of status.

Action to be taken:

67. The UK Government to change legislation such that holders of an expired pre-settled status retain lawful status in the UK and can still apply for settled status if eligible (i.e. demonstrating continuous residence in the UK, without breaching criminality checks).

⁵⁰ http://www.t3m.org.uk/t3m_letter_HO_EUSS_WA

h. Transparency and data protection

68. As covered in section 1(b) and 1(e) above, the3million has a number of concerns surrounding the EUSS as regards transparency and data protection.

Action to be taken:

69. A number of actions can be taken:

- Fully disclose the public, private, and charity organisations in the UK and abroad with which an applicant's data can be shared. This should include detailed specification of which data will be shared - personal details, security questions, biometric details.
- Disclose the Policy Equality Statement (PES) for the EU Settlement Scheme, as committed to in response to the latest ICIBI report
- Repeal the Immigration Exemption clause of the Data Protection Act 2018

i. Visa requirements for travel to the EU for non-EU family members of EU citizens

70. Currently, non-EU family members of EU citizens, with nationalities that would ordinarily require a visa to travel to EU member states, are exempted from those visas if travelling with their EU family member and in possession of an EEA Biometric Residence Card (BRC) showing they are a family member.

71. After the end of the transition period, the UK issued EEA BRCs are no longer valid, and the EU has said it will not recognise EUSS BRCs in the same way.

72. Similarly, non-EU family members of British citizens living in the EU will no longer have EEA BRCs and will instead have WA Article 18 documents issued in the EU Member States. If such family members have nationalities that would ordinarily require visas to enter the UK, they may no longer be able to enter the UK without a visa after the end of the transition period even if travelling with their British family members.

73. For more details:

- Briefing⁵¹ with more background information
- We have included this in our joint letter with British in Europe ahead of the first meeting of the Specialised Committee on citizens' rights⁵²
- We have also included it in our joint response - to be published shortly - to the European Commission Guidance Note
- Letter from EU Commission (Jan 2020)⁵³ which states clearly that non-EU family members **must** be able to hold both EEA family residence card **and** status under the EU Settlement Scheme

⁵¹ http://t3m.org.uk/non_EU_familymembers_travelrights

⁵² §2.2 of http://www.t3m.org.uk/t3m_BiE_SpecialisedCommitteeMeeting_May2020

⁵³ http://t3m.org.uk/EC_reply_t3m_TravelToEU

- Letter to Home Office (April 2020)⁵⁴ asking that non-EU family members are able to hold both EEA and EUSS BRCs until the end of transition period - currently the Home Office asks for an EEA BRC to be handed in and cancelled in order to receive an EUSS BRC

74. This represents a considerable loss of travel rights for those family members - which is not merely a holiday issue but for many a highly problematic obstacle to regularly seeing close family members who live on the 'wrong' side of the Channel.

Action to be taken:

75. Several actions need to be taken:

- For the UK to agree with the EU that these Article 18 documents should be recognised reciprocally.
- For the UK to correct its current policy around cancelling EEA BRCs

j. Status of citizens eligible for, but not yet granted, EUSS status during the 'Grace Period'

76. The Withdrawal Agreement makes clear that people have until June 2021 to apply for status. The Immigration Bill removes freedom of movement rights as of December 2020. The Government has to ensure that during the grace period (January to June 2021) those people who are eligible for status, yet have not yet applied for it, will nevertheless have a lawful status. The Government has not made clear how it intends to create the legislation to ensure this.

77. It is insufficient to simply tell employers and landlords that they should not be checking for status during this grace period, as this in itself does not give people lawful status. Furthermore there is concern that the message of this implied 'suspension' of the hostile environment for six months will not get through to employers and landlords, and we fear there will be widespread discrimination against EU citizens who have not yet been granted status under the EU Settlement Scheme.

Action to be taken:

78. Several actions need to be taken:

- The Government must provide legislation to ensure a legal status for those who no longer have EEA Regulation exemption from Immigration Rules, and do not yet have a status granted under Immigration Rules
- The Home Office should provide details of how they will ensure that all employers, landlords and other service providers do not aim to distinguish between different classes of EU citizens during the grace period, and will not discriminate against EU citizens.

⁵⁴ http://www.t3m.org.uk/HomeOffice_EEA_EUSS_BRC

k. Status of people who do not apply before the EUSS deadline

79. People who have not applied for status will have no legal basis to remain in the UK after the grace period (currently ending 30 June 2021), no matter how long they have lived in the UK. They will be liable to removal and will face the hostile environment⁵⁵.
80. People at risk of not applying by the deadline are often vulnerable – for example, children in care and adults with dementia or mental health issues - but missing the deadline because you are unaware of the need to apply could happen to anyone. Our recent research on young Europeans living in London made some concerning findings: despite being seen as an "easy to reach" group in terms of education and digital literacy, some participants heard about the EUSS for the first time during the focus groups⁵⁶.
81. We have always advocated changing the EU Settlement Scheme so that it is backed by a declaratory system so that people who apply late (simply because they did not know they needed to do) do not lose legal status in the UK⁵⁷.
82. Even if certain people are allowed - by having 'reasonable grounds' - to apply after the deadline, they will have lost their legal status in the time between the Scheme deadline and the (late) grant of their status. Not only will they have been criminalised through no fault of their own, they may also for example face large NHS debts if they had treatment during this period without legal status. We have already seen this happen during the Windrush scandal – one example is Albert Thompson, who faced charges for cancer treatment unless he could prove he was in the UK lawfully⁵⁸.
83. The Government has made clear repeatedly that they do not intend to change the scheme to a declaratory scheme. In the absence of doing so, a number of measures must be put in place to make the scheme safe.

Action to be taken:

84. Several actions need to be taken:
- The Government must publish what it considers to be 'reasonable grounds' for applying late. It would be preferable if this were to be a list of reasons that were not 'reasonable grounds'. In our view, the only people who should be excluded from applying late are those who pose a risk to the public and are thus ineligible to apply.
 - The Government must extend the deadline unless Parliament gives its assent to closing the scheme to first-time applications from citizens who lived in the UK before the transition period

⁵⁵ <https://uk.reuters.com/article/uk-britain-eu-immigration/eu-citizens-warned-over-missing-brexit-residency-deadline-idUKKBN1XOORH>

⁵⁶ t3m.org.uk/YoungEuropeansBriefing

⁵⁷ <https://www.the3million.org.uk/automatic-rights>

⁵⁸ <https://www.theguardian.com/uk-news/2018/apr/19/windrush-albert-thompson-cancer-treatment-theresa-may>

(nb the scheme will stay open beyond the deadline for future family members, and for people with pre-settled status to apply for settled status)

- For those who are allowed to apply after the deadline, legislation must be put in place to ensure that their residence between the deadline and the (late) grant of their status is deemed lawful.

I. Voting and candidacy rights

85. While EU citizens in Wales and Scotland have been guaranteed to retain their existing voting and candidacy rights at local elections, EU citizens in England and Northern Ireland have not. Through existing arrangements with Ireland, through unilateral grant of voting rights to Commonwealth citizens, and through a few recent bilateral agreements, EU citizens from Ireland, Cyprus, Malta, Portugal, Spain, Luxembourg and Poland should retain their voting rights. Our briefing⁵⁹ gives more details.

Action to be taken:

86. The UK Government should unilaterally guarantee the retention of existing voting and candidacy rights to **all EU citizens** rather than making them dependent on bilateral treaties. In our view the easiest and fairest way to do so would be to level these rights up, as Wales and Scotland have done, and offer local election rights to **all lawfully resident citizens**.

m. Communications about Rights, the Scheme and Future System

87. The Government has invested in some communication about the EUSS and applications to it via various mediums, but there is a clear need to restart and expand the communications strategy. Whilst over 3 million applications have been submitted, there is no way of knowing the true number who are remaining to apply. Indeed, it is not just people that need to apply but also communications about what rights EU citizens have post transition.

88. There have been insufficient communications to the general public about how the UK's exit is impacting on EU citizens and what rights they have. This is particularly important in the employment, renting, banking and hospital sectors where knowledge of EU citizens and their rights post exit will be crucial. Coupled with this, is a clear need to explain to the public what the new immigration system will be and how EU citizens will fit within it. We have had little information to employers/landlords about what, why, when and how they will need to prepare for the new immigration system due to start in January 2021.

Action to be taken:

89. A renewed and detailed communications strategy is required to inform both existing EU citizens but also the public more broadly about their rights but also the future immigration system

⁵⁹ <https://www.the3million.org.uk/let-us-vote-campaign>

n. Supporting the vulnerable to acquisition of status

90. For the majority of EU citizens, applications to the EUSS and accessing status will be simple. But this is not the case for everyone. It has been repeatedly submitted at various stages that there should be ample support (both legal and practical) for the most vulnerable to apply to the scheme. It is not a case of communications about the scheme alone, but also the need to support people with applications - be it form filling, acquiring passport, making representations to the Home Office about a lack of paperwork. We have significant concerns about the dwindling support to EU citizens for help with applications to the scheme and have growing concerns about the lack of legal aid to support people through complicated legal cases.

Action to be taken:

91. Further funding should be provided to the legal and advice sector to provide end-to-end support to EU citizens and their family members. Funds should be made available to be used for advice and assistance purposes for at least 3 years after the deadline to ensure that there is ample support for those complex cases navigating the application and appeals process.

o. Management and Curation of Immigration Status

92. The new digital system requires the owner of the status to keep up to date their contact details and passport information so that they can continue to access their status. The change of an email address coinciding with a loss of mobile phone/change of telephone number could be fatal and result in someone losing access to their status. Equally, the continuous requirement to curate and update details to maintain access to status creates an ongoing fragility to a person's ability to access and prove their rights. This has been one of arguments in favour of a physical document to provide that extra support for people to prove their status in an increasingly hostile environment to immigrants.⁶⁰

Action to be taken:

93. Provide EU citizens with a physical alternative to their online status to mitigate the issues with accessing and curating immigration status.

p. The Hostile Environment and the recommendations of the Windrush Lessons Reviewed report

94. We welcome the Government's acceptance of the recommendations within the Windrush Lessons Reviewed report⁶¹. In particular, we welcome the recommendations relating to the engagement with affected communities and a significant review of the Hostile Environment measures. We continue to have serious concerns about the Hostile Environment's architecture and its impact on EU citizens. We

⁶⁰ t3m briefing on why we need physical documents to evidence our status:

<http://www.t3m.org.uk/PhysicalDocuments>

t3m briefing on why we reject a digital-only EU Settlement Scheme status:

<http://www.t3m.org.uk/DigitalOnlyStatus>

⁶¹ <https://www.gov.uk/government/publications/windrush-lessons-learned-review>

have had reports, as set out above, of increased instances of discrimination when facing the internal immigration regime (landlords, employers etc.), but this will only be amplified when those who fail to apply in time for their rights attempt to navigate the various checks. The effect of those not applying in time will place them at significant risk of losing their jobs, housing, access to help and could lead to detention and removal from the UK. Given the numbers of people potentially eligible for rights under the WA, there could be thousands facing this risk.

Action to be taken:

95. The recommendations of the Windrush Lessons Learned Review be implemented urgently and before the end of the transition period to prevent more innocent people falling foul of the mechanics that saw so much suffering inflicted on the Windrush generation.

5. Do you have any estimates for how many EU citizens in the UK have yet to apply to the EU Settlement Scheme?

96. The UK has no centralised record of the EU population resident in this country, so there is no benchmark against which the EU Settlement Scheme [EUSS] performance could be assessed⁶². Office for National Statistics provides estimates of this population based on surveys, but there are multiple issues with using such data to assess the uptake of the EUSS. For example, the most recent ONS estimates show there were 121,000 Bulgarian nationals resident in the UK at the end of December 2019. However, according to EUSS statistics, over 179,000 applications have been received from Bulgarian nationals by the end of May 2020. At face value this figure shows that 148% of Bulgarians have already applied under the EUSS. This is just one example; there are multiple problems with using existing population estimates to assess the population eligible for the EUSS.
97. The fundamental issue is not obtaining the correct estimates - as this is not possible in practice - but preparing for a situation after the grace period where there is very likely to be a large group of people who have still not applied, as no similar scheme anywhere has ever managed to reach 100% of its target audience. *Even if* the scheme performed as well as the most successful scheme to date, to switch everyone to Digital TV⁶³ (the campaign ran from 2007 to 2012, £200m was invested in it, and 97% of people signed up by the time analogue TV was switched off) - this would mean over 100,000 EU citizens losing legal status and facing the full thrust of the government's hostile environment policy: loss of jobs, housing, benefits and healthcare treatment.
98. The Government must therefore have a clear plan for how to manage a situation where the deadline approaches and many thousands, who face being without a legal basis to be in the UK, have not yet applied. It must be transparent about what assessments are being conducted to establish under what

⁶² <http://www.t3m.org.uk/EUSSReporting>

⁶³ <https://www.thinknpc.org/resource-hub/settled-status-what-level-of-take-up-can-we-expect/>

circumstances the grace period should be extended, when and for how long⁶⁴, and what constitutes reasonable grounds for applying beyond the deadline.

6. Is there a role for civil society representatives of EU citizens in the UK to input into monitoring of the Withdrawal Agreement? If not, how might this be addressed?

99. There is a clear role for civil society representing EU citizens in the UK to have input into monitoring the WA. Organisations representing and addressing issues facing EU citizens will be key in translating individual problems and experiences into coherent requests and observations about implementation of the agreement. This has historically been achieved by support and advice services in the community along lines of demographics (such as women, children, victims of trafficking) and more recently specifically to those millions who are in scope of the WA (like the3million and British in Europe).
100. There is a lot to be done to support and fund organisations in civil society to best represent EU citizens. The problems EU citizens will experience in acquiring and accessing their rights will undoubtedly be complex and numerous with variations along lines of geography, demographic and so forth. Most organisations have an advice / support function and further funding and support is required to ensure that the problems they experience and see are heard. The platforms where those issues can be brought to have been established within the framework of the agreement (rights of appeal, the independent monitoring authority and international committees), but we have concerns about individuals and organisations not having the resources/knowledge to bring those issues effectively to them and Government more generally.
101. The Independent Monitoring Authority (IMA) will replace the European Commission in its role as the guardian of citizens' rights and will have an active role in understanding and addressing issues with the Government and (if necessary) the courts. This function, vital as it is, will require support from civil society to engage with it and provide the necessary information on issues that EU citizens will face with accessing their rights. This ultimately will require time and resources.
102. We don't doubt the Government's intentions to fulfil its obligations under the agreement, but with millions of people applying and having a new status under an entirely new agreement there will be problems. Only with effectively resourcing civil society organisations can those problems be heard early and resolved.
103. Another key mechanism for oversight on the rights of both groups of affected citizens will be the Specialised Committee on citizens' rights under the Joint Committee on Implementation of the WA (established under Article 165 WA).

⁶⁴ http://www.t3m.org.uk/ImmigrationBill2020_CommitteeBriefing

104. Given that the stated first priority of both parties since 2016 has been to secure the rights of citizens caught up in a situation not of their making, the3million and British in Europe have requested that representatives of our organisations contribute as expert observers to the specialised subcommittee on citizens’ rights. We have received a positive initial response from the Foreign & Commonwealth Office⁶⁵ and Mr Šefčovič⁶⁶ and we look forward to continuing the dialogue. However, again, we have concerns about the resources available to organisations like ours to be able to effectively represent the issues facing EU citizens.

7. Do you have any other concerns for EU citizens in the UK regarding the remainder of the transition period up until the June 2021 deadline for applications?

a. Face to face appointments

105. While we applaud the Home Office for creating a successful digital application to ensure swift status for a large majority of applicants with straightforward lives, we lament the ‘computer-says-no’ environment for those with more complex lives, those lacking digital skills, or those in vulnerable situations. The few face-to-face elements of the EU Settlement Scheme like scanning centres, digital assistance and UKVCAS are merely appointments to continue pressing people through a digital application. The paper application alternatives require legal help to navigate.

106. It is still not too late to create individualised help at local authority level, so that people can have a face-to-face appointment with someone authorised to use discretion, make decisions and grant status.

b. Information outreach

107. As mentioned in 3(d) under COVID-19 concerns, we are concerned that not enough resources are dedicated to getting the message out to all EU citizens and non-EU family members that they must apply for a new status.

c. Vulnerable groups

108. We are concerned about all vulnerable groups who are at risk of losing their legal status in the UK, and all the consequences of such loss in the UK’s hostile environment. The Children’s Society have stated that only 11% of the estimated 9k eligible children in/leaving care have secured EUSS status.⁶⁷ There is a serious issue for people lacking mental capacity to apply - what will happen to those without people with power of attorney to apply on their behalf? Someone - though it is not clear who - will have to apply to the Court of Protection to appoint a deputy, which is a lengthy and complex process.

⁶⁵ http://www.t3m.org.uk/reply_FCO_SpecialisedCommittee

⁶⁶ http://www.t3m.org.uk/reply_Sefcovic_SpecialisedCommittee

⁶⁷ <https://twitter.com/RAMPproject/status/1262743595401932802>