



To: Rt Hon Priti Patel MP, Secretary of State for the Home Department
Dr Thérèse Coffey MP, Secretary of State for Work and Pensions

CC: Kevin Foster MP, Minister for Future Borders and Immigration
Nick Thomas-Symonds MP, Shadow Secretary of State for the Home Department
Jonathan Reynolds MP, Shadow Secretary of State for Work and Pensions
Holly Lynch MP, Shadow Immigration Minister
Rt Hon Stephen Timms MP, Chair of Work and Pensions Committee
Rt Hon Yvette Cooper MP, Chair of Home Affairs Committee
Rt Hon Hilary Benn MP, Chair of Committee on the Future Relationship with the European Union
Kate Green MP, Chair of All-Party Parliamentary Group on Migration
Kate Osamor MP, Chair of All-Party Parliamentary Group on No Recourse to Public Funds

19 April 2020

Dear Home Secretary and Work and Pensions Secretary,

I am writing to you on behalf of **the3million**, the largest grassroots organisation representing EU citizens living in the UK.

We write to bring to your attention a significant concern relating to the UK Government's implementation of its obligations under the Withdrawal Agreement. It is our understanding that **the UK Government is not treating citizens who are granted pre-Settled Status via the EU Settlement Scheme equally to British nationals**. This is specifically the case with regards to eligibility for Universal Credit. We ask that this be remedied urgently.

The EU Settlement Scheme and the Withdrawal Agreement

Those whose immigration status is being impacted by the UK's decision to leave the EU can apply for a new immigration status via the EU Settlement Scheme. This immigration status has been created to discharge the UK's obligations under Part II of the Withdrawal Agreement ('the citizens' rights part'). The UK endorses **all** status issued to people via the EU Settlement Scheme with confirmation that it has been issued in accordance with the Withdrawal Agreement.

The Withdrawal Agreement sets out that citizens granted status as part of the UK's obligations under the citizens' rights part will have protection from discrimination and be treated equally to British citizens. This is required by Article 23 of the Withdrawal Agreement, and specifically includes access to social assistance (with only a very narrow prescribed set of derogations available to the host State).

We have written confirmation from the European Commission that **anyone** granted such status is entitled to the rights as set out in Part II of the Withdrawal Agreement.

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The Universal Credit Regulations and Pre-Settled Status

We have received numerous reports that since the ratification of the Withdrawal Agreement earlier this year and in particular since the Covid-19 outbreak, EU citizens and their family members are being refused Universal Credit despite having a status granted to them under the Withdrawal Agreement.

Anyone wishing to access Universal Credit must demonstrate that they have a right to reside in the UK i.e. are legally allowed to live in the UK. British citizens do this by providing proof of their nationality. As such, citizens with EU Settlement Scheme status must be afforded the same, equal treatment.

Whilst citizens with Settled Status via the EU Settlement Scheme pass the right to reside test, citizens with pre-Settled Status do not. Some of their applications are refused. This is the effect of Regulation 9(3)(c)(i) of the Universal Credit Regulations 2013. This regulation aims to deny citizens with EU Settlement Scheme status equal rights with British citizens. It denies equal treatment to citizens who can prove they have a right to reside recognised under Part II of the Withdrawal Agreement unless they can also prove a second, separate, right to reside under EU law. The regulation makes these citizens' right to reside under the EU Settlement Scheme worthless for benefits purposes.

The outcome is that citizens with pre-Settled Status – who have been granted the legal right to reside in the UK - are being discriminated against compared to British citizens. **This appears to be in contravention of the UK's obligations under the Withdrawal Agreement, in particular Article 23.**

This cannot be right. Families are facing great hardship in these very challenging times. Any citizen granted **any** status via the EU Settlement Scheme should satisfy the right to reside test and be eligible for Universal Credit.

We hope that you can give this matter urgent consideration and look forward to your response.

Yours faithfully,

Luke Piper

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