



Home Office

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Monique Hawkins
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The3million

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Dear Monique,

Thank you for your letter of 27 January on behalf of the Safeguarding User Group regarding the Home Office plans to begin curtailing pre-settled status where a person no longer meets the requirements of Appendix EU due to a break in their continuity of residence. I have also addressed an outstanding question raised in your 2 December letter (sent jointly with Zoe Bantleman of the ILPA) regarding EU Settlement Scheme (EUSS) family permits. I am sorry for the delayed response.

Timeframe for beginning curtailment action

You suggest that curtailment action should not begin at this time as the automation process to upgrade people to settled status is still in a stage of relative infancy and that there is no immediate benefit to introducing the curtailment process.

It is right, and compliant with the Withdrawal Agreement, that we consider removing EUSS status, and the associated rights, where the holder no longer meets the requirements, particularly if they have left the UK. Delaying the commencement of curtailment for a year or more, as suggested, would give people the opportunity to return to the UK with access to benefits and the NHS, while building up their residence towards settled status under the generous 30/60 provision. We do not consider this is fair to status holders who have continued to meet the requirements or to UK taxpayers. Ensuring that pre-settled status holders continue to satisfy the residence requirements helps to protect the integrity of the EUSS and maintain public confidence in the operation and robustness of the scheme.

Curtailment decisions are based on whether a person meets the relevant criteria, which include the requirement to maintain continuous residence in the UK. People who qualify for settled status will not be subject to curtailment consideration. As such, we do not see

the need to have automatically upgraded more people before we begin to consider curtailing the status of those who no longer meet the requirements.

Once the new process takes effect, checks against the Residence Proving Service (RPS) will be changed to check for 30 months' residence in the most recent 60-month period. These changes will allow a person with evidence of more than 30 months' residence in the most recent 60-month period to be granted settled status automatically. We believe this will increase the proportion of people automatically upgraded to settled status.

Furthermore, as part of the changes to the process being introduced, cases identified as having a tax and benefit data footprint of less than 30 months in the most recent 60-month period will then be checked against Home Office travel data. Once a case is considered by a caseworker, where the travel data together with the tax and benefit data shows a sufficient residence footprint to grant settled status, then a caseworker will grant settled status.

Finally, the curtailment process will prioritise reviewing the status of those who have been outside the UK for the longest periods of time, starting with those who have been outside the UK for the last five years, which under the Withdrawal Agreement means they no longer qualify for status. As there will be a finite number of caseworkers working on such decisions, it is highly unlikely that those who are currently in the UK building up a new 30-month residence period having previously broken their continuous residence will be considered for curtailment before they are eligible for settled status. As a result, we think that this approach will have the same effect that your idea of delaying curtailment action will have in giving those currently resident in the UK time to build eligibility for settled status.

Delaying the introduction of the new curtailment process would mean a delay in the changes to the RPS checks and the introduction of travel data to support grants of settled status, to the detriment to thousands of individuals. Due to the way the system has been designed, curtailment consideration comes at the end of a single linear sequence, beginning with RPS checks and subsequently incorporating travel data checks. These capabilities cannot be separated to delay one part of the process and not another.

Therefore, given the positive impact in granting more people settled status without needing to make an application and the fact that curtailment will focus on those with the longest absences, we do not consider it appropriate to postpone.

Impact on vulnerable/procedural safeguards

You have raised several points around the procedural safeguards of the curtailment policy and your view that there will be disproportionate impact on the vulnerable cohort. I have responded to these points below.

Home Office travel data

While there are known limitations to travel data, we have high confidence in its use when manually reviewed by caseworkers and considered in conjunction with other available evidence. Home Office travel data captures travel in and out of the UK via air, rail and sea. Caseworkers primarily review Advanced Passenger Information (API), which covers scheduled and unscheduled flights, voyages and Channel Tunnel rail services (coach passengers are passengers of the ferry or the shuttle train which carried their coach to or from the UK). From July 2024, API data provides information which confirms a person's

departure on a flight. A project is currently underway by data colleagues to supplement API data from pre-July 2024 to confirm a person's departure on a flight.

Caseworkers are trained to identify missing travel events, such as where there is a missing travel event as shown by two consecutive entry or exit travel events and will calculate the period of time between the applicant's recorded travel events which confirms their residence in the UK. The positive impact of utilising travel data in this way has been demonstrated through the number of cases granted settled status under the application route without the need for the applicant to provide additional evidence of residence. If we had concerns about the accuracy of travel data, we would not be using it to support grants of settled status.

Each case identified as requiring further review where excess absences are identified, will always be considered by a caseworker. The caseworker will check tax and benefit data and individual travel data before making a decision to either grant settled status, maintain pre-settled status or send a minded to curtail notification to request additional evidence of residence. The option to grant settled status will apply to both cases where sufficient residence is confirmed by available border data and cases with no border data where we are satisfied on the evidence available that the person is unlikely to have left the UK since their pre-settled status was granted.¹ This approach offers a significant level of assurance.

You have raised concerns around the accuracy of Home Office travel data and its use by other departments, specifically HM Revenue and Customs (HMRC). HMRC have been clear that it was the removal of additional checks upfront against PAYE data that caused some people to have their Child Benefit incorrectly removed.² Home Office travel data will always be considered under the EUSS in conjunction with other data and information sources, including evidence from the individual.

In addition, a proportionality assessment will be undertaken before a decision to curtail is made and will offer an additional level of assurance. To make a proportionality decision, the caseworker must have regard to all relevant information, including any additional evidence provided by the person. Where a person can satisfy the caseworker that, on the balance of probabilities, the cancellation or curtailment decision is disproportionate it will not proceed.

Safeguards for vulnerable people

As we have said previously, we welcome your views on how vulnerable individuals can be identified and how we can support them. To help support individuals who may be vulnerable, if 28 calendar days have passed since the 'minded to curtail' letter was issued and the person has not contacted the Home Office, a caseworker will review any evidence provided with the original EUSS application. If signs of vulnerability are found, the person will always be sent a further request for evidence and their case will be placed on hold for a further 28 days to allow additional time to respond.

Thank you for your feedback on including indirect indicators of vulnerability such as previous contact details linked to a person's UKVI account which do not appear to belong to that person or indicate emergency accommodation like a PO Box for a refuge; this is something we will explore as part of the additional write out process mentioned above.

¹ Further detail is set out in the caseworker guidance on page 183, which can be found here: [EU Settlement Scheme EU, other EEA, Swiss citizens and family members](#)

² <https://committees.parliament.uk/oralevidence/17122/html/>

You suggest that when considering curtailment, the Home Office should accept evidence in the form of testimony from family or friends. Unfortunately, as such evidence is not independently verifiable it cannot be accepted. However, as with all decisions under the EUSS, the principle of evidential flexibility applies. A caseworker may request more information or clarification if the additional information could make a material difference to the assessment of proportionality.

You asked if we consider there to be a tolerable risk of pre-settled status holders receiving a curtailment or cancellation decision based on inaccurate travel data. We believe that any risk is mitigated by the safeguards listed above together with the assurance that Home Office travel data will always be manually reviewed by a caseworker and in conjunction with other available information and evidence relating to residence in the UK.

The minded to curtail notification

Thank you for the recent feedback on the draft minded to curtail notification. We have made a number of changes to reflect your feedback. As we will begin the rollout of this policy by looking at peoples with the longest absences from the UK, the majority of cases reviewed will have very little, or no, evidence of UK residence in the most recent five-year period. As such, we think it is practical to request they provide evidence of residence for a full five-year period to satisfy the caseworker that they have continued to meet the requirements of their pre-settled status. However, we plan to add more detail to the minded to curtail notification following the initial rollout to allow caseworkers to specify the period requiring evidence of residence.

We are aware of the risk that some pre-settled status holders may not receive email communications due to not keeping the contact details on their UKVI account up to date. We also accept that unlike a person who makes an application and therefore anticipates communication from the Home Office, this cohort may not expect it. Therefore, we plan to utilise two contact methods to ensure a status holder is reached. We will send a text message, which will be sent in conjunction with the emailed minded to curtail notification, to alert the status holder that they have received an email from the Home Office. Where the status holder then logs into their UKVI account, they will also see notification text and an evidence upload link which advises they have been sent an email explaining that they need to upload evidence.

Further, we consider that the 28-day period for responding to the minded to curtail notification finds the right balance between encouraging prompt action whilst providing the majority of status holders sufficient time to gather and upload the relevant evidence. Extending this standard window may mean that individuals forget to act or put off action, which we want to avoid.

The minded to curtail letter sets out how to upload evidence and request an extension for providing the necessary information or evidence. Given the implications of losing pre-settled status, we will take a pragmatic approach to this and where a person has sought to engage with the minded to curtail letter an extension of a further 28-day period will usually be appropriate. Where a pre-settled status holder needs support or to request an extension, they can contact the Resolution Centre.

Alternatively, as set out above, if, after the 28 calendar days from when the 'minded to curtail' letter is sent, a person has not made contact with the Home Office and is identified as vulnerable, a further request for evidence will be sent to them.

Allowing people to rely on PSS until it expires

You suggest that the Home Office should commit publicly that everyone can rely on their pre-settled status until the expiry date currently associated with their status. If you think it would provide additional reassurance, we could state publicly that a person can rely on their pre-settled status unless it lapses, has been cancelled/curtailed or invalidated. We would be happy to discuss a form of wording that you think would best reassure.

You also raise that because the Home Office extends all pre-settled status to prevent expiry, there is a legitimate expectation that a person can keep pre-settled status until it expires. We do not accept this, as the pre-settled status extension notification a person receives when their status has been extended clearly states we may still cancel pre-settled status if the status holder has not met the eligibility requirements since that status was first granted.

Compliance with the Withdrawal Agreement – systemic verification

The Withdrawal Agreement imports Article 14 of the Free Movement Directive, under which a host state may, in specific cases where there is reasonable doubt, verify whether a person satisfies certain conditions and therefore enjoys a right of residence. Such verification may not be carried out “systematically”.

We do not consider the planned curtailment process raises concerns of compatibility with the Withdrawal Agreement. In our view, curtailment of pre-settled status where a person no longer meets the requirements of Appendix EU due to a break in their continuity of residence is not ‘systematic verification’. Where assessment of all available information, including checks against RPS and Home Office travel data raises a reasonable doubt as to whether a person continues to be eligible for PSS, they will be contacted and, where appropriate, verification of their residence right under the Withdrawal Agreement will be conducted. Such verification will not be systematic but specific to the individual case where a person no longer appears to have residence rights under the EUSS and there is reasonable doubt as to whether they continue to have residence rights under the Withdrawal Agreement.

Non-discrimination

You raise concern that there is a breach of Article 12 of the Withdrawal Agreement on non-discrimination grounds; citing discrimination on grounds of nationality. You are correct that joining family members and third country nationals cannot be automatically converted to settled status due to additional eligibility requirements.

However, we have reconsidered our approach to curtailment and these cohorts will not have their residence reviewed through the curtailment process. Instead, we will consider these cases for curtailment where they are identified as no longer meeting the requirements in other ways, such as where their EEA sponsor’s status is being curtailed.

Legal support

You ask the Home Office to reconsider our position on future grant funding, and that we consider the demand for legal support in respect of cancellation processes, along with a review of the level of such funding and the conditions attached to any funding.

Funding for EUSS grant funded organisations (GFOs) will cease at the end of this financial year, on 31 March 2026. The Home Office keeps all grant funding under regular review to ensure it delivers value for money and supports Government priorities. Since 2019,

around £32.5 million in grant funding has been made available to a number of voluntary and community organisations across the UK to support vulnerable individuals with applying to the EUSS. These organisations report having helped many tens of thousands of people to obtain status under the scheme. For clarity, GFOs have never been involved in supporting curtailment or cancellations.

Where a pre-settled status holder receives correspondence from the Home Office, they can contact the Resolution Centre, should they require assistance with that correspondence. We have also taken on board your recent feedback on the minded to curtail letter and now signpost to Citizens' Advice and Law Centres for free support. The Immigration Advice Authority Adviser Finder provides a list of free and fee-paying organisations that can provide accredited immigration advice to support individuals. For the avoidance of doubt, please note that the EUSS Vulnerability Team are unable to provide advice on immigration matters.

Cancellation for those outside the UK

Where a decision to remove status has been taken in respect of a pre-settled status holder who is identified to be outside the UK, their pre-settled status will be cancelled with immediate effect, before the outcome of any appeal. When checking travel data, if we are unable to establish whether a person is inside or outside the UK their pre-settled status will be curtailed.

Though such a scenario has not previously arisen and is unlikely to arise during the process if they were resident in the UK before their short holiday, if a person is identified as being outside the UK but we are unable to establish whether they are on a short break or have left the UK permanently they would be sent a minded to curtail letter and asked to confirm the circumstances of their current absence from the UK. Where a person responds to confirm they are on holiday or a short trip, we would allow extra time to respond and if we are satisfied someone is usually a UK resident we would not make a curtailment decision until they were back in the UK. This would be assessed on a case-by-case basis.

Lack of stakeholder consultation

Since planning for the automated EUSS process began in 2023 we have regularly attended engagement sessions, both direct and through wider forums, to share details of the planned policy and process changes. This engagement has also covered Home Office plans for curtailment. We have sought to answer stakeholder questions, share documents for review and take on stakeholder feedback where possible. The most recent example of this is sharing the draft minded to curtail notification letter to obtain feedback, which we have incorporated into the final letter.

Whilst we value stakeholder engagement and feedback, we must balance this against Home Office policy, operational and ministerial priorities which can mean we are limited in how much further input we can accept in the decision-making process. We will continue to attend regular engagement sessions and remain open to suggestions on how this engagement can be improved.

Proportionality guidance

We will shortly share the EUSS curtailment and proportionality guidance with you. We keep all guidance under review and would welcome your views. Any feedback will need to

be balanced with Home Office objectives, including ensuring continued compliance with the Withdrawal Agreement.

Right of appeal

You raise that the timeframe of 14 days for bringing an appeal against a cancellation or curtailment decision is inadequate. The 14-day period applies where the person is in the UK. If the person is outside the UK, the notice of appeal must be received not later than 28 days after they receive the notice of the decision. The time limits for appealing are set out in the Tribunal Procedure Rules, as amended by the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations, which there are no plans to amend.

EUSS family permit

Finally, in your joint correspondence with ILPA dated 2 December, you asked how joining family members with a pending valid EUSS application could travel to and from the UK if their six-month EUSS family permit had already expired.

Where a non-visa national has a pending valid EUSS application, the carrier should automatically receive confirmation that they have permission to travel based on their pending EUSS application provided they are travelling on the same travel document used to make their EUSS application. Border Force may ask joining family members to show they have either a valid or expired EUSS family permit linked to the same EEA citizen sponsor. There is no need to re-apply for an EUSS family permit.

Where a visa national has a pending valid EUSS application and their EUSS family permit has expired, they will not have permission to travel without a visa or visa exemption document and are likely to be prevented from boarding. Such applicants can apply free of charge from overseas for an EUSS family permit, which will be considered on an accelerated process, but based on application date. As such, we would advise that visa nationals await their EUSS decision rather than travel.

EEA Citizens' Rights and Hong Kong Unit