

Clear the persistent EU Settlement Scheme backlog

What?

The EU Settlement Scheme backlog has never dropped below 122,380 applications, and the most recent published statistics show that the backlog has now *risen* to 137,040 applications. Almost 21,000 of these had been waiting longer than a year.

Additional to this is those waiting for a decision on Administrative Review (where latest published figures show around 14,000 still outstanding - half of which had been waiting for longer than a year), and the applications currently under appeal (no data available).

Over 60% of the EUSS decision workload in the last published quarter was on 'upgrade' applications. These are applications from people who have already successfully demonstrated that they were eligible for pre-settled status, but are being held to a raised evidentiary threshold to show a footprint of five years of residence. 15% of these applications do not result in a grant of settled status.

We propose a pragmatic approach of granting settled status automatically to those who were already granted pre-settled status and have held that status for five years.

Why?

The impact on citizens is significant. On top of crippling anxiety while waiting months for a decision, they are denied many rights in the meantime. Most are prevented from travelling abroad because they would be refused entry back to the UK. In theory, they have some (but by no means all) residence rights. In practice, employers and landlords are reluctant to engage with those without secure immigration status, and other entities such as DWP, local authorities and Student Finance England make inconsistent decisions due to inadequate guidance.

It is the most vulnerable persons who struggle the most with the upgrade process - both in understanding and evidencing 'continuous residence'.¹ The COVID pandemic was unprecedented, and led to patterns of absence from the UK that were unique to each individual, difficult to evidence and even more challenging to fit into predetermined Home Office guidance on acceptable absences.

Considerable Home Office resources could be freed up by automatically granted settled status on the 5-year anniversary of a grant of pre-settled status, where there are no significant new suitability issues that have arisen in those 5 years. Furthermore, this would relieve significant pressure on local authorities, DWP decision makers, tribunals and the rest of the court system, and Home Office grant-funded organisations.

Why not? Reasoning behind UK Govt position and why we disagree

We presume the Home Office is concerned that there could be a backlash if they are seen to relax eligibility conditions. We believe it is very easy to explain to the British public that those who the Home Office had accepted had a right to live in the UK were now, five years on, being given their right to remain in the UK indefinitely, subject to suitability checks.

¹ E.g. 'Roma EU citizens in the UK: Ongoing struggles with the EU Settlement Scheme (May 2024)' available at https://www.romasupportgroup.org.uk/uploads/9/3/6/8/93687016/policy_report_version_2.pdf

There will likely be a set of individuals who are granted settled status who would not otherwise have been eligible, but we cannot see how that can possibly weigh up against an alternative set of vulnerable individuals who are left with insecure immigration status, whose rights will become more precarious over time.

Cost?

This will be a cost saving to the Home Office, the court system, the DWP and other departments.

How?

- Primary legislation
- Secondary legislation
- Immigration Rules**
- Guidance change**

The detail

Change the Appendix EU Immigration rules such that:

Anyone who has held pre-settled status for a period of five years is eligible for a grant of settled status, subject only to:

- o No known serious suitability issues relating to the applicant's conduct *since* their grant of pre-settled status
- o Declaration by the applicant of their current residence or intended continued residence in the UK

Create an automated process to automatically upgrade pre-settled status holders to settled status based on the above eligibility criteria.

Change the manual application process and EUSS caseworker guidance so that any pre-settled status holder who applies for settled status is considered by the above eligibility criteria.