

Give victims of domestic abuse immediate settlement under the EU Settlement Scheme

What?

Family members of EU citizens can apply for and maintain immigration status under the EUSS where their relationship breaks down because of domestic abuse. The last Government introduced protections for victims of domestic abuse under the EUSS in June 2020 allowing victim-survivors to retain their right of residence after domestic abuse related relationship breakdown. Despite this critical protection, more needs to be done to support victim-survivors under the EUSS.

The first problem that continues to undermine protection for victims of domestic abuse under the EUSS is that they are not given automatic entitlement to public funds. This can be remedied by giving victims of domestic abuse with pre-settled status entitlement to welfare benefits and housing so that they can obtain safe accommodation and financial independence away from the perpetrator of abuse, without which many are unable to flee abuse or risk destitution.

The second problem is that victims of domestic abuse under the EUSS cannot apply for settled status immediately on relationship breakdown leaving them with a more precarious pre-settled status. The last Government attempted to address this problem in April 2024 by giving some family members with pre-settled status as a spouse or partner the option to apply for indefinite leave under the domestic immigration route of Appendix Victim of Domestic Abuse. However, this approach was flawed in so far as it requires those pre-settled status holders to give up their EUSS status to access settlement under another immigration route, and also does not apply to other family members, namely children, parents and relatives of EU citizens. The only effective remedy is to change the EUSS rules to create an immediate route to settlement for all family members whose relationship has broken down because of domestic abuse.

Why?

Migrant victims of domestic abuse whose immigration status is based on a family relationship risk losing their immigration status and destitution on exiting their abusive relationship. Migrant victims of domestic abuse need a secure immigration status, in their own right, that is not dependent on a continuing relationship with their abuser, and they need access to welfare benefits and housing to help them obtain safe accommodation and financial independence from their perpetrator of abuse.

Victims of domestic abuse with pre-settled status should not have to give up their EUSS status to access other immigration routes that offer them public funds and settlement, yet this is what the last Government's policy response requires. It puts victims of domestic abuse with pre-settled status at risk of losing their Withdrawal Agreement rights in practice because, without EUSS status, they would no longer be able to effectively evidence them. All Governments must now learn the lessons of the past and ensure people with rights have them properly evidenced. By far the best and simplest way of ensuring people with Withdrawal Agreement rights can prove them is by allowing them to keep status under the EUSS, and not requiring them to switch into another immigration category in order to access protection as a victim of domestic abuse.

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

We are not sure why the last Government decided not to offer victims of domestic abuse immediate settlement under the EUSS and instead require them to switch immigration status in order to access public

funds and settlement. We believe it may be because it wanted to implement the minimum protection necessary following the outcome of a settled legal claim¹ in which it had agreed its policies discriminated against a partner with pre-settled status who did not have access to public funds or settlement on domestic abuse related relationship breakdown. It is also likely to relate to the last Government's position that EUSS status does not confer Withdrawal Agreement rights on anyone, which would instead have to be proven at any future point in time with reference to stricter requirements than the EUSS eligibility requirements.

We believe it is unworkable to expect anyone, let alone victims of domestic abuse, to be able to prove Withdrawal Agreement rights without having a valid immigration status that specifically confirms them. The current expectation that victims of domestic abuse in the years ahead will be able to provide continuous evidence from 31 December 2020 to the present day of their family relationship and their abuser's employment is beyond absurd and demonstrates a complete failure to understand domestic abuse or a total lack of genuine desire to protect victims of it.

Cost?

Making this change will mean that some victims of domestic abuse will become eligible for welfare benefits and housing, some months or years before they would otherwise have been. This is believed to be a very small group. Furthermore, the cost saving to other statutory and government-funded services would likely off-set this cost. For example, at present where victims of domestic abuse with pre-settled status cannot access public funds and settlement, they would instead rely on accommodation and support from a Local Authority or other grants awarded to domestic abuse services.

How?

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

The detail

We propose an amendment to Appendix EU, the Immigration Rules relating to the EUSS, to create an immediate route to settlement for victims of domestic abuse who satisfy sub-paragraph (e) of the definition of a 'family member who has retained the right of residence' in Annex 1 of Appendix EU. This would allow victims to apply for settled status as soon as their qualifying relationship has broken down permanently because of domestic abuse, rather than having to complete a continuous qualifying period of five years. Consequential changes to the main EUSS caseworker guidance would also be required.

In addition, changes to secondary legislation relating to welfare benefits and housing would be required to disapply the prohibition on pre-settled status holders accessing welfare benefits and housing assistance thereby allowing those with pre-settled status as a family member to access benefits and housing when their relationship has broken down because of domestic abuse, even while they apply for and await their grant of settled status.

¹ <https://www.centralenglandlc.org.uk/News/ddv-concession-home-office-ruling>