

Bristol, 31<sup>st</sup> October 2018

Dear Caroline Nokes,

We are writing to you as [the3million](#), representing EU citizens resident in the UK, in response to your appearance at the Home Affairs Select Committee on Tuesday 30<sup>th</sup> October 2018.

We are extremely shocked to hear that, in the event of no Withdrawal Agreement being reached between the UK and the EU, the government is proposing to end Free Movement on or soon after Brexit, without providing a way to ensure EU citizens currently residing in the UK can be identified and their status clearly evidenced. The implications of doing so will be catastrophic for EU citizens in the UK, due to the logical consequence of the following incontrovertible facts, unique to the UK:

- The UK **never implemented a mandatory registration system for EU citizens**, although it would have been able to do so under EU Directives (and indeed most other EU countries have done so). This means there are over 3 million EU citizens who have no proof of entitlement other than their EU passport or ID card (while the UK is in the EU this is all they need).
- The UK **has implemented a hostile environment policy**, which means border control is delegated to service providers such as employers, landlords and others who face severe penalties if they provide their services to people who are not entitled to them. Widespread discrimination against EU citizens will arise, as for example employers will find it impossible to determine who has a right to work, given the Government has admitted it does not know how to address this.

The government by their own estimates has stated it will take at least 2 years for over 3 million EU citizens and their families to obtain settled status, and that their status should be protected within this time.

[the3million](#) have consistently warned the government that **any period** during which obtaining settled status is voluntary **must coincide** with all EU citizens being treated the same within the hostile environment policy.

In addition, we have been seeking details from the government on the situation of EU citizens' rights in the event of no deal, and have repeatedly raised the alarm that the Technical Notices did not address this.

We therefore now seek urgent clarification from the minister on these questions:

1. In the absence of a Withdrawal Agreement being signed and ratified between the UK and the EU, is the UK Government intending to end free movement by introducing legislation to repeal EU citizens' rights as maintained by the European Union (Withdrawal) Act 2018, and if so when?
2. In the eventuality of free movement ending before December 2020, will the government suspend, for a sufficient length of time, the Hostile Environment policies such that employers, landlords etc will be able to continue accepting EU passports / id cards as sufficient proof of entitlement for EU citizens?

3. If the government is not prepared to suspend the Hostile Environment policies, can the minister clarify how EU citizens resident in the UK before Brexit will be protected from discrimination and potentially catastrophic loss of rights to employment, housing, etc., in line with reassurances made by the UK government that all EU citizens currently living in the UK will be allowed to stay and have their rights protected?

Yours sincerely,

Nicolas Hatton, [the3million](#)

cc. Yvette Cooper, Chair of the Home Affairs Committee  
Hilary Benn, Chair of the Exiting the European Union Committee

### **Supplementary Information: Previous Communications on Settled Status Implementation**

During the Home Affairs Select Committee on Tuesday 30<sup>th</sup> October 2018<sup>1</sup>, Yvette Cooper asked:

“If there is no deal, [...] this time next year, will there be any change to who has a right to work here or not?”

Caroline Nokes replied:

“Yes, because we’ll have brought forward the future immigration system, and EU citizens will not have an automatic right to work in the UK unless they have been through the same processes that we’re going to apply to the rest of the world.”

We now set out below some of our very explicit warnings given repeatedly over the last year.

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<sup>1</sup> <https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/news-parliament-2017/brexit-border-security-preparations-evidence-17-19/>

## October 2017

the3million published its '**Alternative to Settled Status Proposal**'<sup>2</sup>. Note that this was before the agreement of the WA transition period, and before the government introduced the notion of a six-month 'post-implementation period' grace period<sup>3</sup>. In the Executive Summary, we stated:

“There should be a grace period after Brexit during which registration will be optional. The grace period should be sufficiently long to allow for all EU citizens in the UK to have been made aware of the registration scheme, and for the scheme to be able to cope with the volume of all EU citizens in the UK to register and receive their documentation. **During this grace period, EU citizens in the UK should be entitled to work, study and use social assistance freely on production of their EU ID card or passport alone, maintaining the status quo. Any alternative would create discrimination between those EU citizens who have obtained their documentation, and those who are entitled to documentation but have not obtained it yet.**”

and later in the document:

“The grace period will have consequences for any new immigration policy the UK intends to introduce in relation to EU citizens arriving post-Brexit. **Since during the grace period it will be difficult to distinguish between those who have arrived prior and those who have arrived post-Brexit, the de facto implementation of a new immigration policy can only come into place following the grace period.**”

## November 2017

the3million published a response<sup>4</sup> to the Government's "**Technical Note: Citizens' Rights – Administrative Procedures in the UK**"<sup>5</sup>. In response to the government's point 5:

Notwithstanding this voluntary scheme, the UK estimates that the period made available for individuals to make an application after exit will last for around two years after the UK's exit from the EU. Those EU citizens and their family members in scope of the Withdrawal Agreement will have their status in the UK protected during that time.

We wrote:

This gives no detail as to HOW the status of EU citizens will be protected during the proposed grace period. **The only way to do so is to have no distinction between any EU citizens, regardless of when they came to the UK.** The reference to 'those EU citizens and their family members in scope of the Withdrawal Agreement' is therefore ambiguous because it suggests it would be practically possible to distinguish between this category of EU citizens and other EU citizens.

The Alternative Proposal makes clear that **during a grace period, there can be no discrimination whatsoever between EU citizens with or without residence documentation.**

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<sup>2</sup> [bit.ly/t3m\\_AlternativeProposal\\_1\\_3](https://bit.ly/t3m_AlternativeProposal_1_3)

<sup>3</sup> Email updates from Home Office to EU citizens, 23<sup>rd</sup> March 2018

<sup>4</sup> [bit.ly/t3m\\_TechnicalNote](https://bit.ly/t3m_TechnicalNote)

<sup>5</sup> <https://www.gov.uk/government/publications/citizens-rights-administrative-procedures-in-the-uk/technical-note-citizens-rights-administrative-procedures-in-the-uk>

## **April 2018**

the3million published its '**128 Questions to the Home Office**' document. Caroline Nokes promised to answer these by the end of June 2018. The document was updated to 150 questions in May 2018, and 162 questions<sup>6</sup> in July 2018, following the publication of the government's Statement of Intent<sup>7</sup>. Our questions have not received any answers to date.

We pose two questions directly addressing the alarming discrimination prospects highlighted by the Home Affairs Select Committee:

Question 5.3 relates during the Transition Period (30 March 2018 – 31 Dec 2020):

How will the government **ensure that people entitled to settled status, but not yet in possession of evidence of settled status, will not be discriminated** against by landlords, employers, banks, healthcare providers or other agencies?

Although we did not receive an answer to this, we marked this question green in version 1.2 since:

The full EU acquis including freedom of movement holds during the transition period, so landlords, employers etc. should continue to accept EU passports as sufficient evidence.

Question 6.1 a) relates during the Grace Period (Jan – Jun 2021):

During the 6 month grace period after the end of the transition period, how will the government **ensure that people entitled to settled status, but not yet in possession of evidence of settled status, will not be discriminated against** by landlords, employers, banks, healthcare providers or other agencies?

This question remains unanswered and therefore we marked it red in version 1.2, with the comment:

This situation is not addressed. During this grace period, landlords, employers etc. are potentially expected to distinguish between EU citizens entitled to settled status and those not entitled to settled status.

Even if landlords, employers etc. are not expected to distinguish between these two groups of EU citizens (requiring a temporary suspension of the Hostile Environment), the government is unlikely to go beyond warning landlords etc. in information materials that discrimination against EU citizens is unlawful.

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<sup>6</sup> <http://bit.ly/t3m-162QuestionsToHomeOffice>

<sup>7</sup> <https://www.gov.uk/government/publications/eu-settlement-scheme-statement-of-intent>