



House of Commons
Home Affairs Committee

**Home Office delivery
of Brexit: immigration:
Government Response
to the Committee's
Third Report of Session
2017–19**

**Sixth Special Report of Session
2017–19**

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Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

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Committee staff

The current staff of the Committee are Phil Jones (Clerk), Harriet Deane (Committee Specialist), Simon Armitage (Committee Specialist), David Gardner (Senior Committee Assistant), Mandy Sullivan (Committee Assistant) and George Perry (Senior Media and Communications Officer).

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Sixth Special Report

On 14 February 2018 the Home Affairs Committee published its Third Report of Session 2017–19, [Home Office delivery of Brexit: immigration](#) (HC 421). The Government's response was received on 16 May 2018 and is appended to this report.

In the Government Response the Committee's recommendations are shown in **bold type**; the Government's response is shown in plain type.

Appendix: Government Response

UK Visas and Immigration

Recommendations 1 to 4

The delay to the proposed White Paper has caused anxiety for EU citizens in the UK, uncertainty for UK businesses, and concern in Parliament about the consistency with which the Government is approaching post-Brexit immigration policy. It is extremely regrettable that the Government has delayed the White Paper and that there now appears to be no clear timetable for it to be published at all, or for the promised Immigration Bill. We recognise the Government's desire to wait for evidence from the Migration Advisory Committee before setting out proposals for the long term. We also recognise that the details of the transition arrangements will be subject to negotiations. Nevertheless, the Government has a responsibility to Parliament, the public, EU citizens who will be affected, employers and the public servants it expects to deliver the policies to provide some urgent clarity on its intentions. (Paragraph 7)

The Government should immediately set out more detailed plans for the registration of EU nationals already here, and its objectives for the negotiations over the transition period. Failure to do so soon will deny Parliament and those affected the opportunity to scrutinise or debate the Government's plans before they are finalised with the EU, despite the fact that this is such a crucial policy area. That is unacceptable. It will also make it impossible for UKVI, Border Force and Immigration Enforcement to do their job properly. As we set out in this report, these directorates are already overstretched and face significant challenges in delivering new policies on Brexit. Expecting them to make late changes without time to plan or consult puts them in an impossible position. (Paragraph 8)

The lack of detail and uncertainty for EEA nationals with just months to go before the process to confirm their status is supposed to start and only a year to go before Brexit is not only difficult and stressful for those affected, it also raises serious questions about UKVI's level of preparedness and ability to deliver a new system. If key questions are not swiftly resolved and delivery plans drawn up, we do not believe that UKVI will be capable of delivering significant changes to the system either at the border or on registration by March 2019. (Paragraph 16)

It is deeply regrettable that the Home Office does not now intend to publish the promised White Paper on Immigration until autumn of this year. This means continued anxiety

for individuals and heightens the prospect of UKVI having insufficient time to plan properly to deliver its services. Much greater clarity is needed now on a series of issues which are causing uncertainty for EEA citizens, employers and UKVI staff. We recognise that some issues will not be resolved until the negotiations on phase 2 have progressed. Nevertheless, there are some issues—such as how the Government plans to address applications from longstanding residents with absences of longer than six months—which it should be possible for the Government to resolve without further negotiations. (Paragraph 17)

The Government understands the Committee's concerns regarding the delay to the publication of the White Paper and its interest in seeing more detailed plans with regard to EU citizens in the UK, now and in the future. However, significant progress on both negotiations and the development of the EU exit settlement scheme since the publication of the Committee's report on 14 February has addressed several of the Committee's recommendations. We will publish further details in the coming months about the practical steps EU citizens will need to take to obtain documentation of their status, have already launched a targeted communications campaign to raise awareness, and will increase communications activity as we head towards launch of the Settlement Scheme by the end of this year.

Citizens' rights

The Government has been clear since the Referendum that the contribution of EU citizens to the UK's society, economy and culture is highly valued, and we want them to stay. That is why we made securing their status, and the status of UK nationals living in the EU, the top priority in negotiations. The agreements reached with the EU provide assurance that they will be able to continue their lives broadly as now.

The nature of the negotiation process with the EU, concluding in March 2018 on citizens' rights, necessarily meant that we were unable to provide the public with definitive information.

We have, however, published as much information as possible as the negotiations developed, starting with the Government's policy document on "Safeguarding the position of EU citizens in the UK, and UK nationals in the EU" on 26 June 2017.¹ Importantly, this clearly stated that the Government was committed to ensuring there would be sufficient time for citizens to obtain the necessary status. This was followed by routine publication of a joint technical table on the progress of the rounds of negotiations on citizens' rights.² On 7 November 2017, the Government supplemented this with a published detailed technical note on the administrative procedures that we envisaged underpinning the settlement

1 <https://www.gov.uk/government/publications/safeguarding-the-position-of-eu-citizens-in-the-uk-and-uk-nationals-in-the-eu>

2 <https://www.gov.uk/government/publications/joint-technical-note-on-the-comparison-of-eu-uk-positions-on-citizens-rights>

scheme.³ We then published a joint report with the EU on 8 December 2017 setting out the high level conclusions of the citizens' rights negotiations,⁴ followed by publication of the draft Withdrawal Agreement on 19 March 2018.⁵

Underpinning this, we have used a number of communication approaches to keep the public informed of progress on citizens' rights, including direct communications through the Home Office's email signup, and guidance on gov.uk.

We will publish further details over the coming months of how the Settlement Scheme will work in practice, ahead of its launch by the end of this year. EU citizens and their family members will have until June 2021 to apply.

Rights of EU citizens arriving during the implementation period

Under the draft Withdrawal Agreement agreed in March, current EU rules will continue until 31 December 2020 and so EU citizens and their family members will continue to be able to come and live and work in the UK as they do now. However, as the Prime Minister set out in her speech in Florence in September 2017, those new arrivals will be required to register under a new registration system.

This registration scheme will help us to understand who is coming to the UK in that period, and to prepare for the future immigration system. We will provide further details on registration in due course.

Furthermore, as part of the agreement reached in March 2018 with the EU, we agreed to extend the protections set out in the joint report on citizens' rights in December 2017 to those arriving during the implementation period. Therefore, EU citizens and their family members who wish to stay beyond the implementation period will be able to apply to the Settlement Scheme by 30 June 2021. After the accumulation of five years' continuous and lawful residence, they will then be eligible for settled status. This agreement has meant that EU citizens, their family members and their employers have the certainty of knowing that they can come to the UK during the implementation period and stay longer term.

EU exit settlement scheme

Work is well underway to develop the EU Exit Settlement Scheme – the system through which EU citizens and their family members protected by the Withdrawal Agreement will be able to obtain leave to remain in the UK. We have committed that the new system will be streamlined and user friendly, and draw on existing Government data where possible to minimise the burden on applicants to provide evidence. We repeat the offer made on 19 February for us to arrange for the Committee to have a briefing on this system to understand how it will deliver on these commitments. We will publish further details in the coming weeks, and in good time for the Scheme's planned launch by the end of the year.

3 <https://www.gov.uk/government/publications/citizens-rights-administrative-procedures-in-the-uk>

4 <https://www.gov.uk/government/publications/joint-report-on-progress-during-phase-1-of-negotiations-under-article-50-teu-on-the-uks-orderly-withdrawal-from-the-eu>

5 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691366/20180319_DRAFT_WITHDRAWAL_AGREEMENT.pdf

As set out on gov.uk, the Settlement Scheme will be open to those EU citizens and their family members who are resident in the UK by 31 December 2020, the end of the implementation period, as well as certain close family members who can join after that point. EU citizens and their family members resident here by 31 December 2020 will have plenty of time, until 30 June 2021, to apply for status under the scheme.

The Home Office has already invested £60m in 2017/18 in preparations for our departure from the EU. To deliver the scheme for settled status alone, recruitment of additional operational staff is underway to bring existing staffing levels of 700 up to c1500 by August 2018. In his Spring Statement, the Chancellor of the Exchequer allocated a further £395m to the Home Office to prepare for exiting the EU.

On technology, the UK recognises that the system it currently has in place for dealing with the processing of registration certificates and residence cards under Directive 2004/38 was not designed to deal with the volumes of cases received after the Referendum. We are therefore designing a new system from scratch, with new processes, technology, rules and support for applicants. The process will be designed with users in mind, and we are engaging with them as the design progresses.

The Home Office has established monthly user groups, consisting of representatives of EU citizens in the UK, community groups, employer representatives and organisations representing vulnerable users, to help us factor stakeholder views into the design and operation of the new scheme.

The user groups are enabling us to test implementation systems and guidance as they are developed, build our understanding of the range of user needs, and develop communications in line with user needs to ensure we reach EU citizens, particularly the vulnerable.

Future immigration system

The Government is considering a range of options for the UK's future immigration system and will set out initial plans later this year. As the Committee's report notes, the Government's decisions on the future immigration system will be based on evidence and engagement. Therefore, we have asked the independent Migration Advisory Committee (MAC) to advise on the economic and social impacts of the UK's exit from the EU, and on how the UK's immigration system should be aligned with a modern industrial strategy. An interim update was published on 27 March 2018 and the final report is expected in September 2018.

Agreeing with the EU that there will be an implementation period lasting until 31 December 2020, after which point the new immigration system will commence, means that the Government will have time to consider the MAC's advice before making detailed decisions, and employers and individuals will similarly have sufficient time to adapt.

Recommendation 5

Further uncertainty has been caused by the Prime Minister's recent comments on arrivals of EEA citizens after Brexit day, during the transition period. The Government needs to provide far greater transparency about its intentions so that people can plan for their futures. For example, we need further clarification on:

- a) **The legal status of EU nationals who have not registered by the time the grace period is over (something the Home Secretary told us would be included in the White Paper);**

As we set out last year in our June policy document, November technical note and in the December Joint Report, as referred to above, EU citizens and their families who are covered by our agreement with the EU on citizens' rights, and who are resident here by 31 December 2020 and have not obtained UK immigration status under the scheme by the end of the grace period, 30 June 2021, will technically have no lawful basis to remain in the UK. However, the draft Withdrawal Agreement provides that where there are reasonable grounds for missing the deadline, EU citizens and their family members will be allowed a reasonable further period of time to apply.

Recommendation 5

- b) **Whether the registration process and rights for EEA citizens will be identical to those of EU citizens and how their rights will be enforced;**

The Government has been clear that it wants to secure agreement on citizens' rights with the remaining EEA states (Norway, Iceland and Liechtenstein) and Switzerland. Our starting point is the agreement on citizens' rights that we have made with the EU.

Officials from the EEA EFTA States (Iceland, Liechtenstein and Norway) and the United Kingdom have met to discuss the agreement reached by the United Kingdom and the European Union on citizens' rights in December 2017. The Government published a statement on our plans to offer residents from Iceland, Liechtenstein and Norway in the UK similar rights as those from EU Member States on gov.uk on 16 February 2018.

UK and Swiss government officials have also held several rounds of scoping talks and policy specific workshops to work towards an agreement. We plan to finalise the details of a political agreement over the coming months and move onto the legal drafting phase as soon as possible.

Furthermore, at the March European Council this year, the Government agreed with the EU that the UK is to be treated as a Member State for the purposes of EU-third country international agreements. The EU will notify other parties of this approach in due course.

As with the agreement reached on continuity of rights for EU citizens arriving in the UK during the implementation period, this approach foresees citizens of these four European Free Trade Association states being able to come to, live and work in, the UK during that period, as they do now.

Recommendation 5

- c) **The legal status of EU nationals arriving after March 2019 who have not registered—including their entitlement to work and their ability to rent;**
- d) **Whether employers, landlords and banks will be expected to check registration documents for EU citizens in the way that they are required to check the immigration status of non-EU citizens;**

Recommendation 37

We are very concerned at the possibility that the hostile environment could be extended to include EEA nationals and apply to an estimated three million more people living legally in the UK without any evidence that the policy is working fairly and effectively. This has the potential to create further errors and injustices, which we have already seen causing unnecessary distress, and to increase the administrative burden on individuals, employers and landlords, without any evidence that the system works. It also cuts across the strong words of the Prime Minister that the UK wants EU citizens living here to stay, if the Government then chooses to subject them to a policy described as the ‘hostile environment’. (Paragraph 122)

During the implementation period (30 March 2019 to 31 December 2020), EU citizens and their family members will be able to come to the UK to live and work as they do now, as current EU rules will continue to apply. There will be plenty of time for them to obtain their status, to June 2021, and the settlement scheme is being designed from scratch to ensure the process for obtaining documentation will be simple and streamlined. Their entitlement to work and their ability to rent will remain unchanged through this period. As is currently the case, to establish a person's right to work or right to rent, employers and landlords checks will be satisfied by production of an EU passport or EU identity card.

The Government will set out its plans in due course for future migration to the UK by EU citizens after the implementation period. Any changes to our approach for EU citizens would not come into force until after the implementation period has ended on 31 December 2020.

The Government is also carefully considering the lessons learned from the treatment of Windrush generation migrants who had lawful status in the UK but did not have the necessary documentation to prove it, and will ensure these important lessons are reflected in the design of any new system of controls introduced for EU citizens after the UK leave the EU.

Recommendation 5

- e) **The status of EU citizens who have lived in the UK for more than five years but are temporarily not living in the UK in March 2019;**
- f) **The status of EU citizens who have lived in the UK for more than five years but have had an absence in another EU country for longer than 6 months;**

An EU citizen who has lived lawfully and continuously in the UK for five years or more will have obtained permanent residence under EU law. We have agreed with the EU that

such a person can then be absent from the UK for up to five years and still be considered resident, ensuring that they can still benefit from the protections of the Withdrawal Agreement. Therefore, those who obtained permanent residence in the UK and were then abroad for up to five years, for example, on business or holiday, or temporarily living abroad, before returning here before the end of the implementation period will still be eligible to apply for settled status.

Recommendation 5

g) The rights of posted workers;

The Government's position is that posted workers should be protected by the Withdrawal Agreement. The EU does not agree with this position so we have committed to return to this in the future relationship discussions.

However, the UK will not differentiate posted workers from other resident workers for the purpose of residence status. This means that posted workers in the UK will be able to apply for leave to remain under the settlement scheme under the same conditions as resident workers so that they can complete their posting if it runs beyond the end of the implementation period.

Recommendation 5

h) Family reunion rights for future spouses of EU and UK citizens;

An EU citizen granted status under the settlement scheme will be able to be joined in the UK at any time in the future by close family members (including their spouse or partner) who were resident overseas at 31 December 2020, if the relationship continues to exist. Close family members are spouses, civil partners and durable partners, dependent children and grandchildren and dependent parents and grandparents. Children born or adopted after the UK leaves the EU to or by those covered by the Withdrawal Agreement, unless they are British citizens by birth or adoption, will also be eligible to apply for status under the settlement scheme. Future spouses and partners of EU citizens with leave under the settlement scheme will need to meet the UK's domestic immigration requirements, which are currently set out in Appendix FM to the Immigration Rules. This will mean equal treatment for EU and British citizens who marry foreign nationals.

Equally, the continued residence of UK nationals and their family members in an EU Member State will be protected by the Withdrawal Agreement as long as they are lawfully resident in that Member State before the end of the implementation period on 31 December 2020, or where a close family member is eligible to join them after that point. If, and when, the UK national returns to the UK after that date, the entry and residence of their family members (whether EU or non-EU citizens) will be subject to the UK's domestic Immigration Rules, rather than provided for under the Withdrawal Agreement.

The Committee has also expressed interest in the minimum income requirement for family members joining UK national or settled persons under Appendix FM. The minimum income requirement can be met in a number of ways in addition to or instead

of income from employment or self-employment. For example, income from the couple's investments, property rental or pension may also be taken into account, together with their cash savings.

Potential earnings of the migrant partner are not taken into account under the five-year route in Appendix FM because employment overseas is no guarantee of finding work in the UK. Partners coming to the UK with an appropriate job offer can apply under Tier 2 of the Points Based System. Those using the family route to come to the UK must be capable of being independently supported by their sponsor and/or by their joint savings or non-employment income. Where, or once, the migrant partner is in the UK with permission to work, we will take their earnings from employment here into account.

Sponsors returning to the UK can count income from a firm, verifiable job offer or signed contract of employment to start work here within three months of their return. They must also demonstrate that either they are in employment overseas at the required income level at the date of application and have been so continuously for at least the previous six months or they have earned the required amount through employment overseas in the 12 months prior to the application.

Otherwise, we expect a returning sponsor to return to the UK to establish themselves in employment before sponsoring their spouse or partner to join them after securing at least six months' evidence of relevant income. This shows that a reasonable probationary period has been served with a new employer, giving some assurance that the employment has been properly obtained and that the person is competent to meet the requirements of the work.

In today's global economy it is not unusual for couples to be separated for some months for work or other reasons before both of them can satisfy the immigration requirements of the country in which they wish to live together. Overall, our assessment is that the family Immigration Rules are having the right impact and are helping to restore public confidence in the immigration system.

Recommendation 5

- i) **The legal implications of applying for settled status prior to ratification of any Withdrawal Agreement and the UK leaving the EU (or during any transitional period when free movement rights continue to exist), and the consequences of any refusal of such an application; and**

We intend to open a scheme for applications for settled status later this year (2018). This will be done through Immigration Rules which will reflect the draft Withdrawal Agreement published in March this year. Successful applicants will be granted indefinite leave to remain (ILR) with the same rights and access to benefits, education and healthcare as those who have acquired it under current UK Immigration Rules, except insofar as the agreement makes special arrangements. For example, ILR granted under the scheme will lapse after five years' absence from the UK not the usual two.

This status, granted under UK law, will sit alongside free movement rights before exit and for the duration of the implementation period, without prejudice to the full enjoyment of

those rights for that period. This will, however, give ILR holders the certainty they have secured their UK immigration status once free movement falls away at the end of the implementation period.

Any applicant refused status under the scheme will still be able to assert their free movement rights and will retain their right of appeal against any restriction of those rights under the Immigration (EEA) Regulations 2016 before and during the implementation period.

The legislation implementing the Withdrawal Agreement will provide a statutory right of appeal for those refused under the scheme who apply under it from exit day. Irrespective of whether a person successfully applies for settled status under the scheme before or after that legislation takes effect, they will, if granted, be granted the same status in UK law, namely indefinite leave to remain, and if refused but not subject to a deportation order, they may also re-apply up until the deadline (30 June 2021).

Recommendation 5

- j) **The status of non-EEA nationals with rights derived from EU law including under *Zambrano, Metock and Surinder Singh* case law.** (Paragraph 18)

The citizens' rights part of the draft Withdrawal Agreement protects the rights of EU citizens and their family members resident in the UK under Directive 2004/38/EC and family members of EU citizens resident under Article 21 of the Treaty of the Functioning of the European Union (TFEU) before the end of the implementation period, and vice versa for UK nationals resident in the EU. We have agreed with the EU that the agreement will apply concepts of EU law interpreted in line with case law of the Court of Justice of the European Union (CJEU) by the end of the implementation period, including cases such as *Metock*, which limits consideration of the previous immigration status of those applying as non-EEA family members of EU citizens.

Chen and Ibrahim & Teixeira

The residence rights of primary carers of self-sufficient EU citizen children in the UK who derive a right of residence from Article 21 TFEU (*Chen*) will be protected by the Withdrawal Agreement until the child no longer requires the primary carer's presence to enjoy their own rights under the Agreement. The same applies to primary carers of self-sufficient UK national children in the EU.

Children of former EU citizen or UK national workers who are in education in the UK or the EU will be able to remain to complete their education (*Ibrahim & Teixeira*). The associated derivative residence rights of their primary carers will be protected for as long as the child requires the primary carer's presence to continue or complete their education.

Some of these persons, for example, the children of *Chen* carers, will be EU citizens eligible to apply for status under the settlement scheme. Otherwise, provision will be made for them elsewhere in the Immigration Rules to apply for leave to remain in line with their current rights. As their current rights do not lead to a right of permanent residence under EU law, they will not be able to apply on the basis of those rights for status under the settlement scheme.

After any leave to remain granted on the basis of a Chen or Ibrahim and Teixeira status expires, and if the person does not qualify for further leave on that basis, they may wish to apply to remain in the UK on an alternative basis, if they meet the requirements of another category of the Immigration Rules.

Surinder Singh

Surinder Singh is a judgment of the CJEU which sets out that, in a UK context, in certain circumstances, family members of UK nationals who return to UK after exercising their free movement rights in another Member State derive a right of residence from Article 21 TFEU. This is implemented in UK law in regulation 9 of the Immigration (EEA) Regulations 2016.

The rights of UK nationals in the UK are not covered by the Withdrawal Agreement because they are a matter for domestic law. Accordingly, their family members are also not covered by the Agreement.

However, as a matter of domestic policy, where family members of British citizens are lawfully resident in the UK under regulation 9 of the 2016 Regulations by the end of the implementation period, it is our intention that they will be eligible to apply under the UK's settled status scheme.

Zambrano

In certain circumstances, the primary carers of UK nationals can derive a right of residence from Article 20 TFEU. As the derivative right is not dependent on the UK national having exercised free movement rights, Zambrano carers are not covered by the Withdrawal Agreement. Domestic policy proposals relating to Zambrano carers will be set out in due course.

Recommendation 6

The Home Office should also draw up contingency plans in case agreement on the transitional arrangements on immigration is not reached this spring making it difficult to get new arrangements in place in time for March 2019. The contingency plan should set out what fall-back policies will operate and what systems and resources will be in place so that UKVI, individuals and employers can plan. (Paragraph 19)

The Government has now reached agreement with the EU on the implementation period.

Recommendation 7

The Government should not wait for the White Paper but should set out now clear and accessible guidance on the rights that EU27 and UK citizens can expect to exercise after Brexit. This should cover not only the implications of the agreement reached in the Joint Report on phase 1 of the Brexit negotiations, but also the Government's intended solutions to those issues left outstanding. The Government should commit to a process of ongoing communication with those affected by Brexit to provide reassurance and clarity to those whose circumstances will change, including producing material aimed specifically at those in exceptional circumstances. (Paragraph 20)

As we set out in our answer to recommendation 1 to 4, the Government has engaged at both Ministerial and official levels with a wide range of stakeholders, including businesses, representative groups and think tanks, and received very positive feedback on our approach to consultation.

We have covered a broad range of topics, including the citizens' rights deal and the scheme for settled status, as well as potential proposals for the future immigration system. These conversations are part of the Government's commitment to ensure that users of the scheme are fully involved in its design and that any decisions on the future immigration system will be based on evidence and engagement. Similarly, we are planning the next phase of engagement on future immigration proposals on both a sectoral and regional basis.

Since November, the new Standing Groups (Settlement Scheme Users' Representative Group, User Group (Consular), and Employers' Representative Group) have met monthly and will continue to do so. Focusing on settled status, the discussions are maturing and playing a valuable part in the design and development of the scheme and associated communications plans. In April we launched a fourth user group aimed at safeguarding potentially vulnerable groups to ensure that their needs are identified and catered for in the design of the settlement scheme.

As part of ongoing DExEU/FCO/HO engagement across the EU27 countries, Home Office officials have attended events held at various embassies, including those of Latvia, Portugal, Romania and Spain. They will continue to engage on this programme of events in the future.

The Government will ensure that EU citizens living in the UK are updated on developments. They can sign up to email updates and view the latest guidance on gov.uk.

In respect of the rights of EU citizens, the Committee has also expressed interest in the application of requirements to hold comprehensive sickness insurance (CSI). The draft Withdrawal Agreement sets out the minimum standards to be applied by the UK to all EU citizens resident here, and by the remaining 27 EU Member States to all UK nationals resident there. The draft Agreement specifies residence in accordance with current EU law, which for self-sufficient persons and students includes the requirement to hold CSI.

However, the draft Agreement also allows the UK and Member States to adopt more favourable provisions than the Agreement requires. We have already announced that we will not require EU citizens living here as students or self-sufficient people to prove that they have held CSI when they apply for settled status in the UK. Students and self-sufficient people living here can still be granted settled status even if they have never held this. It is a matter for individual Member States how they wish to implement the Withdrawal Agreement and whether they adopt more favourable provisions for UK nationals resident there.

In some circumstances, however, CSI is still required for the purposes of accessing the healthcare system in the UK. Any EU citizen travelling to the UK during the implementation period and who is not ordinarily resident here will continue not to be eligible for NHS-funded care. Such individuals should have the necessary CSI depending on their circumstances, for example a European Health Insurance Card or an S1 form so as to avoid being charged directly for any care they need.

Recommendation 8

Citizens of Norway, Iceland, Lichtenstein and Switzerland living in the UK, and third-county nationals who are in the UK under EU-derived rights based on previous legal judgments currently face even greater anxieties than EU nationals. The Government should specify that EEA citizens will have the same rights as EU nationals and should clarify that they will be covered by the same registration process. Similar concerns apply in relation to the limited pool of non-EEA nationals with derived rights, including under Zambrano, Metock and Surinder Singh case law, who appear to have been ignored during the first phase of negotiations. (Paragraph 21)

Please see the Government's response to Recommendation 5(b) and (j).

Recommendation 9

We welcome the Government's announced intention to make the registration process for EU residents a smooth process, using information shared by other government departments such as HM Revenue & Customs to demonstrate residency. It is important that these commitments are put into practice. However, given previous failures to implement new information-sharing and digital services across government, this carries significant risks. (Paragraph 23)

Work is well underway to build both the scheme for settled status, and the system that will enable us to register EU citizens and their family members who arrive after 29 March 2019 and want to stay in the UK for longer than three months. As per our answers to recommendation 1 to 4, we want to provide assurance and reiterate that the new systems will be streamlined, user-friendly and draw on existing Government data to minimise the burden on applicants to provide evidence. We will publish further details in due course. We repeat the offer made on 19 February for us to arrange for the Committee to have a briefing on this system.

Recommendations 10 and 16

The Home Office has failed to convince us that UKVI will have the necessary resources to manage the huge challenge of Brexit. We do not believe sufficient staff and systems are yet in place to operate a smooth and effective registration system for EU citizens currently resident here. While we welcome the Government's decision to increase the number of staff who handle European casework, the evidence we heard suggests the Home Office is planning moderate adjustments for an immense bureaucratic challenge. We are also concerned that it will not be sufficient to cope with surges in demand or large numbers of applications that are not straightforward. A failure to deal with such demands efficiently is likely to undermine confidence in the system. (Paragraph 29)

The Government is currently resourcing the European casework section in UKVI to cope with applications from EEA nationals resident in the UK before 30 March 2019. It will need to recruit additional staff if the qualifying period is to be extended to include the transition period or if a separate registration scheme is introduced. In the absence of early decisions and answers, we do not believe that it is feasible for the Government to establish two smoothly functioning registration schemes (one for existing residents and one for new arrivals after Brexit day) by March 2019. (Paragraph 46)

Since the announcement of the EU referendum result, European Casework in UKVI has increased operational staffing numbers from 308 full-time equivalents (FTE) to 719 FTE. Robust plans are in place to incrementally increase staffing levels from 719 FTE to 1,500 FTE in readiness for the start of the settlement scheme later this year. In addition, European Casework has already secured accommodation across two new sites, with further accommodation on track to be delivered in April 2018 and then July 2018. This new accommodation will fully accommodate the increased staffing levels of 1,500 FTE.

Recommendation 11

We recommend that the Government clarify its recruitment and retention plans for immigration services and publish concrete and evidence-based strategies for managing the workload. In addition, the Home Office should develop a clear process to manage the flow of applications to ensure peaks in demand are avoided and put in place robust contingency plans to deal with any backlogs that may develop. The Government should not rule out an extension of the grace period as a contingency plan. It should also ensure that cost is not a barrier and be prepared to waive the fee for particular groups of applicants, such as children in care, who often face insecurity when they transition to being treated as adults. The delays to the White Paper and the lack of any timetable for answering the basic, unresolved questions about the registration process make it even more difficult for the Home Office to deliver the scheme. (Paragraph 30)

The Home Office constantly reviews its capabilities to deliver the Government's agenda. We continue to assess how our priorities will impact on the workforce and capabilities required. Operational units across the Home Office actively monitor workflows to ensure sufficient resources are in place to meet demand and will continue to do so throughout negotiations and as the UK leaves the EU. Any resultant changes to resource requirements will be factored into strategic planning.

We recognise the cost of the new settled status application will be important for EU citizens, and intend to set fees at a reasonable level. The Joint Report that the Government agreed with the EU in December sets out that documents "will be issued free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents." In the UK, this means that the fee for settled status documents will be no more than the fee for a UK passport (but not necessarily that it will be the same). We will set out the fee in regulations in due course and subject to Parliamentary scrutiny in the usual way.

As was initially announced last autumn and was set out in further detail on 28 February, those arriving during the implementation period will be able to come and live, study and work in the UK as they do now but there will be a registration scheme for those who choose to stay for longer than three months. We will ensure it is streamlined and user friendly and will set out further details in due course.

Recommendation 12

We welcome the Government's announcement that EU citizens with a permanent residence document will not have to provide any further proof of residence, and we urge the Government to make the process as automatic as possible to reduce unnecessary burdens on both individuals and the UKVI. We recommend that the Government remove the requirement for EEA nationals to obtain a permanent residence document

before applying for citizenship. The process is bureaucratic and unnecessary and scrapping it would immediately free up much needed resources and make it easier for people to apply for citizenship—something which we believe the Government should seek to encourage. (Paragraph 35)

It is our intention that EU citizens who obtain settled status (indefinite leave to remain) under the settlement scheme will be able to use this as a basis for naturalisation should they wish to do so.

Recommendation 13

The Government failed to put resources in place in time to meet the predictable post-referendum surge in applications for a permanent residence document, and a backlog developed. Many of those who applied for permanent residency may now be considering applying for citizenship. The Government should prepare for such a scenario, including by exploring whether the process can be streamlined. (Paragraph 36)

Although there was a significant increase in applications for permanent residence around the time of the referendum, there was no backlog because our output remained within published service standard throughout 2016–17.

UKVI is currently dealing with 100 per cent of straightforward citizenship cases within the published service standard. However, we are working in line with the Committee's recommendation to prepare for any increase in applications. This includes introducing a new 'front end' process in the Autumn of 2018 which will streamline the customer experience, as well as exploring the introduction of a priority service.

Recommendation 14

Given the difference of view between the EU and the Government on the rights of EU nationals arriving in the UK during transition, it appears that there will not be final clarity until the completion of phase two negotiations. It is concerning that we do not have clarity about what the Government wants the rules, rights and registration for new arrivals after 2019 to look like, and we do not even know what the Government is seeking to achieve from the negotiations in this area. The Government should set out now what its proposed arrangements are for EU citizens arriving during the transition period so that they can be debated in Parliament, so that the public, employers and EU citizens who may be planning to come here after March 2019 have an idea what they might expect, and so that UKVI can plan. The Government should also set out how these will be different from the arrangements for EU nationals living here already. If, instead, the Government expects to apply the same arrangements as for existing residents, it should say so. We had hoped that these issues would be resolved in an imminent White Paper. Given the delays, this cannot wait for the White Paper at the end of the year, because by then it will be too late to plan and too late for Parliament to scrutinise the Government's intentions. (Paragraph 42)

We reached agreement with the EU in March 2018 that those EU citizens and their family members who arrive in the implementation period are covered by the Withdrawal Agreement and they will have until 30 June 2021 to apply for UK immigration status under the settlement scheme.

Recommendation 15

For a new registration scheme for EEA nationals arriving post-Brexit to be operational from 30 March 2019 we would expect key resources to have been allocated by now, recruitment plans to be in progress and the development of necessary IT systems to be underway. If this remains the Government's intention, it should now set out the details, cost and resource implications of the proposed scheme as well as indicating the data it intends to collect, the criteria which will be applied, and the extent to which the proposed scheme will be subject to negotiation with the EU. (Paragraph 45)

Work is well underway to build both the scheme for settled status, and the system that will enable us to register EU citizens and their family members who arrive after 29 March 2019 and want to stay in the UK for longer than three months. As per our answers to recommendation 1 to 4, we want to provide assurance and reiterate that the new systems will be streamlined, user-friendly and draw on existing Government data to minimise the burden on applicants to provide evidence. We will publish further details in due course.

Recommendations 17 and 18

We welcome the Government's decision to commission evidence from the Migration Advisory Committee before making decisions on the long-term immigration framework, but this should not prevent it consulting more widely in the meantime. (Paragraph 48)

We recommend that the Government assess whether falling EEA net migration has increased employer attempts to recruit from outside the EEA. If the Government finds there is a link between the fall in EEA net migration and the increase in the number of non-EEA nationals whom employers are applying to sponsor to come and work in the UK, we recommend reviewing the current operation of the Tier 2 system. (Paragraph 50)

The MAC has been asked to report by September 2018 and, given the implementation period will be in place until 31 December 2020, there will be time to take account of the MAC's recommendations in designing the longer-term immigration system for the UK.

Recommendations 19 and 20

The evidence we have received in this inquiry has revealed a picture of Home Office teams struggling with a lack of resources, high turnover of staff and unrealistic workloads. A lack of experienced staff and pressure to meet targets has meant that mistakes are being made that have life-changing consequences. A lack of first-line supervision is leading to mistakes not being identified or rectified and effective feedback to improve learning from errors is absent. Cases are being moved outside of service standards often with little or no justification, causing delay and frustration for the applicant and too frequently the first time a case receives adequate attention is when it goes to court. We note that the number of cases going to court has fallen but this is largely because access to justice has been restricted, not because initial decisions have improved. This is an unacceptable way to run an immigration system. (Paragraph 69)

We recognise and pay tribute to the hard work of individual staff members and teams within UKVI. We are concerned, however, that frontline staff are poorly supported and overworked. UKVI needs improved recruitment and retention and more resources, not just to deal with the forthcoming challenges of Brexit but to reduce existing backlogs and the pressure on the current workforce. (Paragraph 70)

Service standards were introduced in 2014, and reflect how long it should take for a straightforward case to be decided. A straightforward case is one where the customer has fully completed their application, and where the case is free of any adverse indicators such as criminality or security concerns, and fraudulent behaviours such as an adverse immigration history.

Cases are not moved outside of service standards without any justification. It is only where a case has one, or several, adverse indicators present – which makes it unlikely that a decision can be made within service standards due to additional checks, often with factors outside the Home Office's control – that a case will be considered non-straightforward. Any case that is defined as non-straightforward requires approval from a senior manager.

All casework staff receive a solid foundation in casework theory, including how to interpret and apply the Immigration Rules and guidance, alongside training in customer service techniques and how to meet their safeguarding obligations. This learning is supplemented with mentoring from an experienced colleague to help individuals gain confidence in decision making. Caseworkers are not authorised to make decisions independently until a pre-determined number of cases of different types (i.e. grants or refusals) are deemed to meet the required standard; evidencing not only decision-making skill but also the ability to complete administration processes effectively as these also impact upon the customer.

Further improvements are being made to identify and address training needs. All Home Office business areas have a Learning and Skills Business Partner who is responsible for preparing for the changes that digital transformation will bring between now and 2020. This work ensures that operational areas can respond proactively to demands, by ensuring the right skills are in place at the right time and that the business achieves best return on investment in learning by spending on the skills in most need.

Additionally, in 2016 Asylum Immigration Casework (AIC) was successful in a bid to the Asylum, Migration and Integration Fund to revise and re-develop its caseworker training. AIC was allocated £1.7m to fund up to 12 staff, as well as to deliver training. The Home Office has appointed a Chief Trainer to lead and develop the training strategy for the coming years within AIC, and over the next two years the Chief Trainer will lead the transformation of training in terms of content, format and impact.

UKVI has a number of strategies in place to improve retention of those with the required skills and talent. We offer a number of talent schemes for staff at all grades and encourage colleagues with protected characteristics to apply for schemes which assist with the development of a diverse talent pipeline. Our workforce planning approach shifted in January 2018 to encourage business areas to assess who is at risk of leaving the organisation and, where a risk is determined, mitigate against loss by ensuring that we are providing the best opportunities for talented staff to grow and develop within the organisation. We continue to work to better understand what motivates staff to stay or leave.

UKVI is also working with the Government Recruitment Service and its psychologists to build bespoke recruitment processes. This is wide reaching and encompasses labour markets, attraction, job adverts and recruitment methods. Future recruitment will be strength based and will involve exercises based on the live environment, with less reliance on academic qualifications and far more emphasis on skills and aptitude for the role. In addition, recruitment timelines are being shortened wherever possible.

UKVI remains focused on improving the quality and timeliness of all its decision making. There is a recognition that improvements are needed in the sustainability of decisions and the quality of engagement with applicants, and we are working to ensure that a customer focus sits at the centre of our approach. We are committed to making sustained improvements, and this has been underpinned via the institution of a new risk and assurance framework across the Home Office. Within UKVI, the approach to quality assurance of decision making, and associated processes, is based on the 'three lines of defence' model:

- First line assurance comprises decision quality sampling within the business command and focuses on monitoring and improving quality across and beyond the business area.
- Second line assurance is the independent assurance of first line activity and high risk and cross cutting issues and is led by the UKVI Operational Assurance and Compliance Team.
- Third line assurance is the independent scrutiny, review and testing of processes, decision making and assurance activity by Government Internal Audit, the Independent Chief Inspector of Borders and Immigration and the UNHCR. This can be through the annual Internal Audit Programme, and pre-planned and short notice inspections.

The model is augmented by organisational learning, which is actively collating, reviewing and analysing lessons from across the Home Office, including those from internal and external inspection bodies.

Recommendation 21

Brexit pressures make it even more important that the Home Office addresses UKVI's serious resource problems. The Home Office should not allow the new challenges arising from managing EU migration to distract or prevent it from addressing these problems, nor do we believe that resources from the rest of the immigration system can be moved away to support Brexit. In addition, the Home Office needs to ensure that weaknesses in the current immigration system—including on recruitment, retention, training, decision-making and management—will not be replicated in the new EU operations. (Paragraph 71)

UKVI has used its experiences in managing the increased intake since the referendum to revise and streamline training and decision making.

UKVI has implemented improved recruitment processes, including the use of an assessment centre, which has speeded up recruitment, reduced costs, and delivered a high calibre of staff. Retention is not an issue in the casework teams in Liverpool where this work will be sited.

Recommendation 22

We welcome the opening of the Next Generation Casework project based in Bootle and efforts to increase digitisation but these initiatives will not be enough to solve the serious problems we have identified. As a priority, the Home Secretary needs to focus on addressing the causes of high staff turnover, improving quality assurance processes and feedback loops, and learning from poor decisions, particularly with respect to decisions that are overturned in the courts. Unless urgent remedies are put in place to address failures in recruitment, retention and training, we fear that, because of the extra pressures on the system precipitated by Brexit, current performance will deteriorate in the coming years, compounding the significant problems which already exist. (Paragraph 72)

Whilst Asylum Intake and Asylum Casework's performance over the past three years has seen it perform very well in relation to straightforward cases, we are aware of the wider issues referenced in the Committee's report about older cases. That is why we created the Next Generation Casework team in Bootle, to make decisions in such cases. We have also acted to address the other areas contained in the Committee's report. We have a new team in place to drive forward the transformation of the asylum process.

Since the last inspection by the Independent Chief Inspector of Borders and Immigration, we have improved the feedback loops in the asylum system so that asylum decision makers get more regular information from Home Office presenting officers about the quality of their decisions and why they might be overturned on appeal.

The Home Office is working to improve and streamline recruitment processes, particularly for bulk recruitment exercises where large numbers are required on a rolling basis. We are working closely with our colleagues across the Government Recruitment Service to identify the best and most effective practices employed across the Civil Service.

In addition, we have launched a review to better understand the reasons behind staff attrition, as well as what motivates and incentivises different demographic groups to join the Department and to stay. This will inform a strategy to maximise retention and minimise staff vacancies.

Recommendations 23, 24, 25

We welcome the review of the immigration rules which the Home Secretary has initiated and urge the Home Office to ensure this work is expedited and its findings implemented. Efforts to simplify the system should not be undermined by the development of rules to incorporate EEA nationals into the immigration system post-Brexit; rather, this should be seen as an opportunity to make bold changes. (Paragraph 74)

In requiring people to apply for repeated extensions before they can achieve settlement the Home Office has increased its own workload as well as added to the costs and

complexity for the applicant. We recommend that the Government review and attempt to streamline the process for those who apply based on long residence and where it is recognised they should be able to remain in the UK. (Paragraph 77)

We do not agree that rejecting an application due to missing information and requiring the applicant to apply again is more efficient than asking people to address perceived problems with their applications. The Government has already accepted that this is the wrong approach for EU citizens in the new registration scheme. It should now consider changing the approach to non-EU migration. UKVI needs to take a more user-focused approach and give people the chance to amend administrative errors before an application is rejected. The increasing digitisation of the application process should help to enable UKVI to embed this change in approach across its work. (Paragraph 79)

We understand that there is concern that the process for acquiring settled status will be bureaucratic and arduous. The Government has been clear that we have learnt lessons from applicants' experiences of the existing routes for obtaining EEA documentation, and are designing a streamlined, user-friendly, digital application process. This will include an assisted digital service for those who need support to make an online application.

As for rejecting an application due to missing information, the report's recommendation rightly points out that, as part of the settled status scheme, we will work with applicants to help them avoid any errors or omissions that may impact on the application decision. Caseworkers will give applicants the opportunity to furnish supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place, and a principle of evidential flexibility will apply, enabling caseworkers to exercise discretion in favour of the applicant where appropriate, to avoid unnecessary administrative burdens.

As for the rest of the immigration system, our rules, guidance and forms are clear as to the evidence applicants must provide with their applications. The increased use of online forms and document checklists will make the requirements clearer still. The onus is on applicants to ensure they provide everything that is asked for, and this approach helps to prevent abuse of the immigration system. Section 3C of the Immigration Act 1971 extends an applicant's immigration status if their previous leave expires while the Home Office is considering their application. A significant volume of incomplete or defective applications appear to be submitted for the purpose of drawing out the consideration process and extending leave under section 3C for as long as possible.

We keep all our Immigration Rules under review, and respond to feedback from applicants and other interested parties where appropriate. For example, in January 2018 we implemented re-written rules for Tier 1 (Entrepreneur) which are clearer and easier to follow, and in addition, we have announced plans to build on the success of the new visitor Rules introduced in April 2015, and simplify the Immigration Rules for work categories along similar lines. We will use plain English remove the out-dated terminology of tiers and points-scoring. Our aim is to make the rules as easy as possible for applicants and their sponsors to understand and use.

Recommendation 26

The Government needs to ensure that there is no diminution in the UK's approach towards meeting its international humanitarian obligations as it leaves the

European Union. It should clarify now whether it intends that the Dublin family reunion arrangements will continue to apply during the transition. When the UK's participation in Dublin ends, whether that is at the moment of Brexit, the end of transition or the introduction of Dublin IV, the Government should make provision for an unaccompanied minor who has a family member in the United Kingdom, who is a refugee or has been granted humanitarian protection, to have at least the same reunion rights with family members in the United Kingdom as they would have had under the Dublin III Regulation. There are also concerns about asylum-seeking children who reach adulthood without their immigration status being determined and who also need certainty and security. (Paragraph 82)

The Government recognises its responsibility to those in need of international protection. The UK has a long and proud tradition of providing protection to those who need it, and we are signatories to both the ECHR and the Refugee Convention. We fully intend that the Dublin III arrangements, like the rest of the asylum acquis, will continue to apply during the transitional period. Section 67 of the Immigration Act 2016 is part of domestic law and will be unchanged by our exit from the EU.

We are cooperating closely with participating States and relevant partners such as the UNHCR, the International Organization for Migration and NGOs, to ensure the safe transfer of children referred by each participating State to the UK. Thus, we are currently working with EU counterparts to transfer 480 unaccompanied children to the UK under section 67 of the Immigration Act 2016. After extensive discussion with France, Greece and Italy, we have agreed to amend the eligibility date on an exceptional basis to ensure we can transfer the approximately 260 remaining unaccompanied children.

In addition, we remain committed to the efficient and effective operation of the Dublin Regulation and as part of the Sandhurst Treaty, signed between the UK and France on 18 January 2018, we announced several further measures to support unaccompanied asylum seeking and refugee children. This includes, in respect of transferring the asylum claim of unaccompanied asylum seeking children under Article 8(1) and Article 8(2) of the Dublin Regulation, a commitment to provide a decision to France within 10 working days of the conclusion of engagement with the relevant UK local authority; and, if applicable, France will aim to transfer the child to the UK within 15 working days.

To support the facilitation of cooperation on unaccompanied asylum seeking children, under both the Dublin Regulation and section 67 of the Immigration Act 2016, we are deploying a UK Liaison Officer to France. Further information on the Treaty can be found here:

<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-01-19/HCWS415/>

The Home Office already has longstanding arrangements in place to consider asylum claims from unaccompanied children. Where an unaccompanied child does not qualify for refugee status or humanitarian protection, and safe and adequate reception arrangements cannot be confirmed in the country of return, the Home Office will consider granting unaccompanied asylum seeking children temporary leave for 30 months or until the child is 17 and a half years old, whichever is shorter. On turning 18, the young person can make a further application if they believe they have a lawful basis to remain in the UK.

We would like co-operation on asylum and migration issues to continue with our EU partners after the UK leaves the EU. We will seek to discuss and agree this with them in the coming months.

Recommendation 27

Effective IT systems need to be at the heart of improving delivery of the existing immigration system and, crucially, available to facilitate the increased workload which will inevitably arise from Brexit, whatever the precise terms of the new migration policy turn out to be. We welcome the Government's commitment to a smooth and streamlined online process for EU citizens who are resident in the UK, and the Minister's indication that the IT system for registration of EU citizens will be ready for testing early this year. However previous performance provides no assurance that the Home Office is likely to have the necessary systems developed, in place and operating efficiently by the end of March 2019. We request that the Home Office sets out in response to this report an update on the progress of major IT projects across the department and the specific steps it is taking to ensure that IT solutions are in place to accommodate the considerable challenges it will face in delivering post-Brexit immigration services. Effective IT systems also rely on clear and early policy decisions so that they can be designed and tested to deliver effectively. In the absence of a White Paper, or a timetable for it, or answers to a series of basic delivery questions, we believe the risks of IT problems and delays are high. (Paragraph 87)

The Government recognises the scale of the challenge in delivering EU exit on Home Office resourcing, including IT. As we set out in the response to recommendation 3, we are designing a new system for the settlement scheme with new processes and technology, and the process will be designed with users in mind.

The Home Office already deals effectively with millions of visa, citizenship, passport and immigration status applications each year, and we are committed to ongoing assurance processes to reduce risk, provide additional confidence and ensure safe delivery of the scheme.

We will continue to ensure Home Office IT is up to the challenge, and we will ensure we have the required resource, including IT, to run an effective system.

We continue to engage with stakeholders who represent EU citizens in the UK to discuss and understand their needs for the settlement scheme. This engagement will support the development of the operational process and system design to ensure that it is fit for purpose. Our aim is for the application process to be streamlined and digital, minimising the administrative burden, and these groups will help us achieve that through ongoing engagement with EU citizens within the UK and their representative groups. At these groups, discussions focus on the development of the settlement scheme, enable us to test implementation systems and guidance as they are developed, develop our understanding of the range of user needs, and develop communication about the scheme in line with user needs.

Border Force

Recommendation 28

We are increasingly alarmed about the impact that inadequate resources are having on the capacity for Border Force to operate effectively. This is a system which has not functioned properly for a number of years, in large part due to insufficient staffing. The consequences of a lack of resources have implications for the smooth operation of the border, the morale and wellbeing of staff, and the quality of frontline immigration services. (Paragraph 93)

The Government has always been clear that Border Force has the resources it needs to secure the border. Border Force's core budget is not an indicator of our officers' ability to keep our borders secure. This is achieved through a multi-layered system of capabilities, including people, technology, intelligence, and joint working.

Over the past three years, Border Force has invested £160m in new technology and capability, and has a capital allocation of £56m in 2018/19. This will be used to fund critical programmes including Digital Services at the Border and Cyclamen, as well as a range of projects to maintain effective detection and digital capabilities (such as e-gates) at the border. Further automation, eliminating wasteful processes and procedures that take people away unnecessarily from the front line, and investment in new technology, all contribute to making the organisation more efficient and maintaining security.

This year, we have made significant progress in training our leaders, developing our ethical competence and ensuring that our people have appropriate contact time with their managers. Our approach is working. Employee engagement in Border Force has increased 5% since last year and has increased in the past two years. We are committed to maintaining and increasing staff morale, rewarding staff for good performance and building a continuous learning culture.

Recommendation 29

The Government needs to clarify whether it wants additional checks at the border on EEA nationals entering the UK after March 2019 or not. It is clear to us that Border Force does not currently have the capacity to deliver this and will struggle to put sufficient additional capacity and systems in place – particularly if it also faces additional pressure to carry out customs checks as a result of the Government's decisions on a customs union. We have warned in a previous report that it would be unacceptable to switch Border Force staff away from security and immigration checks to deal with new customs checks. (Paragraph 99)

We reached agreement with the EU in March on an implementation period during which EU citizens will continue to be able to come to live and work in the UK as now.

On the wider question of Border Force capacity, the Government's priorities at the border are to deter and prevent individuals and goods that would harm the national interests from entering the UK, and to facilitate the legitimate movement of individuals and trade

to and from the UK. There is no suggestion that any changes to UK border operations necessitated by EU exit will jeopardise border security, and the Government is committed to ensuring trade is as frictionless as possible.

Our hard-working Border Force officers continue to prioritise the security of our border while trying to keep waiting times for arriving passengers to a minimum. More than 95% of passengers sampled are cleared within our agreed waiting times.

Our cutting edge digital systems allow officers to identify and stop dangerous individuals from travelling to the UK, instantly identify imposters travelling on fake or fraudulently obtained documents, and detect illegal goods or even people being smuggled into the country.

We have no reason to believe there will be an increased number of persons entering the UK because of our exit from the EU. Currently all passengers arriving on scheduled services in the UK are checked against police, security and immigration watch lists on arrival at the border. The majority of these are checked against our systems before they even travel, through the collection of advanced passenger information.

On the movement of goods, Border Force officials already make decisions on whether to permit EU traffic to enter the UK, and seize illicit and illegal goods at the border through a number of checks using skilled people, technology, intelligence and targeting. This range of capabilities means the relationship between resources and checks at the border is not linear.

As we prepare to leave the EU, we will continue to ensure operational resilience at the border. Border Force is in the process of recruiting an additional 300 frontline officers to ensure we can prepare for day one, including enabling existing frontline officers to be trained in new requirements.

On capacity more generally, Border Force has also launched a nationwide recruitment campaign for officers with up to 1,000 roles being advertised.

Border Force actively monitors workflows to ensure sufficient resources are in place to meet demand and will continue to do so throughout negotiations and as the UK leaves the EU. Any resultant changes to resource requirements are being factored into strategic planning to ensure we have the resources and workforce we need to keep the border secure.

Recommendation 30

Border Force's staff are committed and professional but they are already overworked and there is an over-reliance on agency workers who lack the experience and skills of their permanent colleagues. We welcome the decision to recruit more staff but in our view the number identified by the Home Office is very likely to be insufficient to backfill existing vacancies, let alone deal with any additional workload that different entry requirements would present. We recommend that the Home Office increase the number of permanent Border Force staff. It should also recognise and urgently address the problem of low morale amongst Border Force staff who carry out such crucial and sensitive work. (Paragraph 100)

People capability is the single most important capability in Border Force. This year, we have made significant progress in training our leaders, developing our ethical competence and ensuring that our people have appropriate contact time with their managers. This approach is working.

Employee engagement in Border Force has increased 5% since last year and has increased in the past two years. We are committed to maintaining and increasing staff morale rewarding staff for good performance and building a continuous learning culture. While we are proud of this progress and the pockets of excellence that exist, there is more to do to fully transform the capability of our people.

The next phase of our work will take us further in delivering a skilled, diverse workforce with excellent leadership at all levels. Border Force actively monitors workflows to ensure sufficient resources are in place to meet demand and will continue to do so throughout negotiations and as the UK leaves the EU. Any resultant changes to resource requirements are being factored into strategic planning.

Recommendation 31

The terms of the UK's exit from the European Union will have a significant impact on the management of both goods and people at the border. There are real concerns that Border Force will struggle to cope with an expansion of its activities, and that airports and other points of entry to the UK lack the physical capacity to carry out additional checks on people and goods. We urge the Government to be realistic about the current limitations in the way Border Force operates and the lack of time left to make substantial changes to the border arrangements for either goods or people before March 2019 without significant disruption, problems or security challenges. Rushed and under-resourced changes will put border security at risk. The lack of clarity on the future relationship with Ireland also poses particular challenges for Scottish and Welsh ports, and of course for Northern Ireland. As we recommended in our report on customs, we believe that the Government should aim to agree transitional arrangements with the EU which involve no practical change to customs operations, either in the UK or the EU. (Paragraph 101)

The implementation period agreed with the EU in March allows the UK, the EU and its Member States, to deliver the detailed arrangements that underpin the new relationship we seek. It is also the case that people and businesses, both in the UK and in the EU, will benefit from the period to adjust to the new arrangements in a smooth and orderly way.

On Northern Ireland, the UK Government remains steadfast in its commitment to avoiding a hard border between Northern Ireland and Ireland, but also in its commitment to avoiding any borders within our United Kingdom.

We continue to stand behind all the commitments we made in December and we will work with the Commission to agree how they should be translated into legal form in the Withdrawal Agreement. The UK Government's planning for EU exit includes a commitment to make the trading process as frictionless as possible. We have a unique opportunity to build a future border model which delivers national security, helps the UK to compete in the global market, and continues to promote the UK as a leading tourist destination. Government departments are working closely together on the detailed

logistical and operational planning for managing all the impacts of the UK's withdrawal from the EU on the border. We are preparing for every outcome across a range of complex issues to develop our future approach at the border.

Recommendation 32

The roll-out of more e-passport gates at ports is welcome and may help free up Border Force resources if EEA nationals can continue to use them after Brexit. As the Independent Chief Inspector has made clear, there need to be sufficient staff to monitor e-passport gates, particularly when there are safeguarding concerns in respect of children and potential victims of modern slavery. The Government should set out what action it is taking to ensure this risk is properly managed. (Paragraph 105)

Guidance has been developed for the roving officer role. Ports deploy roving officers in line with Border Force guidelines. The national policy states that, for terminals with six or more e-Passport gates, there is a mandatory requirement for a roving officer to be deployed at all times. Where there are more than 10 e-Passport gates, it is recommended that two or more roving officers are deployed to man the e-Passport gates. A national review of the existing roving officer guidance will be carried out in time for summer 2018 and the findings of this inspection will be factored into that review.

Border Force fully accepts that monitoring officers have a role to play in the safeguarding of children and vulnerable people. There is a multi-layered approach to safeguarding at the primary control point which includes targeted use of intelligence, behavioural detection training, and roving officers at larger ports. Border Force has a unique chance of intervention to help victims at the border. However, it is recognised that not all victims will accept help at that juncture. Whilst reviewing roving officer guidance, we will also look at the capabilities of the monitoring officer role. This work will be completed by the summer 2018.

Immigration enforcement

Recommendation 33

Enforcement is important for the credibility of any system. Clarity is needed for the public, EEA citizens who could face enforcement action and for Parliament on what the Government intends on enforcement. Immigration Enforcement need to know so that they can make plans, and there also needs to be proper opportunity to scrutinise the Government's proposals to make sure they are effective, credible and fair. We recommend that the Government sets out as soon as possible what enforcement arrangements it believes are appropriate for EEA nationals in relation to registration of both existing residents when the grace period ends, and of new arrivals after March 2019. It should also set out a strategic plan for Immigration Enforcement including any additional resources and staff it will need. (Paragraph 110)

The Government has set out its intention in its published document "Safeguarding the position of EU citizens living in the UK and UK nationals living in the EU" to issue residence documentation to EU citizens who will be granted UK immigration status on the basis of their residence in the UK.

During the implementation period, people will be able to come to the UK to live and work as they do now. We will set out more details about the registration scheme in due course.

Recommendation 34

We have previously called on the Government to improve its enforcement of the immigration rules to help build confidence in the system and thereby move towards greater consensus on immigration policy. Improved enforcement requires the efficient identification and removal of those in breach of immigration laws. The reintroduction of exit checks will contribute to this but only if there are sufficient staff in place to process the casework. Current resources are clearly stretched even in advance of any Brexit changes. The Government should set out plans to improve the resourcing of Immigration Enforcement and recruitment and retention of its staff. As with UKVI and the Border Force, it is important that Brexit does not distract from or prevent action to improve enforcement across the rest of the immigration system. (Paragraph 115)

Successful transformation of the business depends on retaining the right people with the right skills in the right places. Immigration Enforcement will continue with plans to ensure that our people have the skills they need to do their jobs through professionalisation of roles, improved operational management, and a continuous emphasis on culture, including performance and absence management, diversity and inclusion, and talent.

As part of these plans to improve recruitment and retention, we aim to translate the promise of modern digital and data solutions into tangible results: better and more streamlined case working systems, better hardware, and an increasingly sophisticated, joined up use of data across Government. This work will provide a solid foundation for delivering our role in exiting the EU and ensuring we have the capability to balance our priorities.

Recommendation 35

The hostile environment is a policy that is broad in scope and which relies for its implementation on many different parts of society, including colleges, landlords, employers, and banks. We find it unacceptable that the Government has not yet made any assessment of the effectiveness of the policy and call on them urgently to do so. (Paragraph 120)

The Government does not agree that it has not undertaken any assessment of the effectiveness of the compliant environment. For example, we conducted a review of the right to rent scheme and are evaluating the impact of the driving licence pilot. All measures that could be considered to be part of the compliant environment are kept under regular review, as with all government policies, and will continue to be so in the future.

Recommendation 36

We question the appropriateness of a policy that discourages individuals from reporting a crime or seeking medical attention. We call for this aspect of the policy to be reviewed and recommend that sensitivity and discretion be used while that review is underway. We note that the Health Select Committee has asked NHS Digital to cease sharing patient data with the Home Office for immigration enforcement purposes whilst it carries out a review of the process. (Paragraph 121)

The UK has in place effective protections for victims of crime, including modern slavery, to enable them to assist the investigations into those offending against them, and we also consider all requests from law enforcement agencies to enable witnesses from overseas to remain in the UK where necessary to enable the criminal justice process to run its course.

The Government is continuing to consider the memorandum of understanding with NHS Digital in the light of the concerns raised by the Health Select Committee.

Recommendation 38

The volume and complexity of cases in the immigration system means that it is unreasonable to expect mistakes to be entirely eradicated. However, there needs to be an accessible means for mistakes in enforcement to be rectified quickly. At the moment, it appears that the most effective means for drawing attention to an error is for the case to be highlighted by a national newspaper or raised by a Member of Parliament. As we set out in our previous report, urgent action is needed to address errors in the enforcement process. While the expeditious response to such cases is often welcome, it is no substitute for a proper reconsideration mechanism. We recommend that a dedicated helpline is established for individuals threatened with removal so that they can bring errors to the attention of the Home Office as a matter of urgency. (Paragraph 127)

The Committee is right to highlight the vast number of decisions that are made every year in the Borders, Immigration and Citizenship system where, in 2017, over 2.7 million visas were issued.

When errors are identified, the Home Office will quickly seek to rectify them. However, it is also the case that many of the decisions raised in the media and by Members of Parliament were correct and upheld by independent immigration judges, and if the Home Office is advised to reconsider a case it does not necessarily mean that errors have been made, but that circumstances may have changed.

All immigration decisions made by the Home Office carry, at the very least, an administrative review, with others carrying a statutory right of appeal. Individuals are also able to apply for a judicial review of any decision made by the Home Office. We believe that the assurance work detailed above goes a long way to prevent errors occurring; and that the existing review and appeal mechanisms are sufficient to ensure any that are made are they are rectified.