



House of Commons
Home Affairs Committee

**EU Settlement Scheme:
Government Response
to the Committee's
Fifteenth Report of
Session 2017–19**

**Fourteenth 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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Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Elizabeth Hunt (Clerk), Harriet Deane (Second Clerk), Simon Armitage (Committee Specialist), Penny McLean (Committee Specialist), Robert Sabbarton (Committee Specialist), David Gardner (Senior Committee Assistant), Mandy Sullivan (Committee Assistant) and George Perry (Senior Media and Communications Officer).

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Fourteenth Special Report

On 30 May 2019 the Home Affairs Committee published its Fifteenth Report of Session 2017–19, [EU Settlement Scheme](#) (HC 1945). The Government's response was received on 19 July 2019 and is appended to this report.

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

Government Response

Introduction

The Home Office would like to thank the Committee for its report "EU Settlement Scheme" published on 30 May 2019.

Since the 2016 referendum, securing the rights of citizens has always been the priority of this Government and we have delivered on this commitment. The draft Withdrawal Agreement with the European Union, and the separation agreements reached with the other European Economic Area (EEA) countries and Switzerland, guarantee the rights of EEA and Swiss citizens and their family members living in the UK, and of UK nationals living in any of the EEA countries or Switzerland.

The Government has also made it a priority to deliver a new scheme to enable EEA and Swiss citizens and their family members to obtain their status in the UK. The EU Settlement Scheme opened fully on 30 March 2019 and makes it easy for EEA and Swiss citizens, and their family members, to get the UK immigration status they need to remain here after we leave the EU, including in a 'no deal' scenario. EEA and Swiss citizens only need to complete three key steps – prove their identity, show that they live in the UK, and declare any criminal convictions.

It is free to make an application to the scheme so that there is no financial barrier to any EEA or Swiss citizen who wishes to stay. Everyone who paid an application fee during the test phases of the scheme has now been issued with a refund.

The scheme is working well, with significant numbers applying and being granted status. As the Minister of State for Immigration informed the Lords EU Justice Sub-Committee in her appearance before them on 16 July 2019, according to the most recent internal figures, the total number of applications received under the scheme is now over 950,000, with over 850,000 people granted status. The latest monthly statistical report on the scheme was released on 18 July 2019.¹

However, the Government understands that there is always more to be done to ensure that the scheme continues to run smoothly and efficiently for applicants, and to support the most vulnerable EEA citizens to make an application. The Government is therefore grateful to the Committee for its report into the EU Settlement Scheme and will continue to look for ways to improve our processes to deliver for the public.

1 <https://www.gov.uk/government/statistics/eu-settlement-scheme-statistics-june-2019>

The Committee will also understand the importance of ensuring that public discussion of the scheme accurately reflects its operation and that we avoid any misconceptions or misunderstandings that create more uncertainty for EEA citizens and their families. As explained below, the Government will work with individual applicants to resolve difficulties and support them in their application. However, the Committee will appreciate the need for accurate information to reach EEA citizens through the media, social media and Parliament, both in relation to individual cases and also the scheme's operation.

For example, articles and publications which imply that EEA citizens can only apply for the scheme using an Android device, or that applications are refused if the individual is not found to have five years' residence according to the automated checks with HM Revenue & Customs and the Department for Work and Pensions, are simply wrong and misleading. While the Government seeks to have such stories corrected as quickly as possible, they undermine efforts to ensure that all EEA citizens – and particularly the most vulnerable – are informed and encouraged to apply for status under the scheme.

Committee conclusions and recommendations and Government response

The Committee set out a number of conclusions and made a range of recommendations concerning the EU Settlement Scheme in its report. The Government's response is set out in the same order as the conclusions and recommendations in the Committee's report. Wherever the word 'we' appears in the conclusions and recommendations, it refers to the Committee and the paragraph numbers referred to relate to paragraphs in the Committee's report. Wherever the word 'we' appears in the response sections, it refers to the Government.

Questions about the EU Settlement Scheme

1. The EU Settlement Scheme is now live, but there remains a lack of clarity over many aspects of the Scheme. The Home Office must provide full responses to the questions posed by the 3 million regarding the Settlement Scheme. It is disappointing that it has not yet done so, as some of these questions were first raised almost a year ago. EU citizens in the UK need certainty, and the Government should give it to them. We address some of these concerns specifically in this report. (Paragraph 15)

The Government has engaged widely about the EU Settlement Scheme with a very large number of stakeholders and established groups for user, safeguarding, employer and consular representatives to consider the design and implementation of the scheme, which have met regularly over the past 18 months. The Government has also conducted wider research and engagement across the UK with hundreds of organisations and thousands of individuals, and will continue to do so.

Each form of engagement has generated questions about the scheme and we have taken the approach of answering these through published materials which are publicly available to all those organisations and individuals with an interest, and on an iterative basis.

The Government has published a range of information on the EU Settlement Scheme that is available on GOV.UK. We will continue to engage with as many organisations and individuals as possible, and will address additional issues as they are raised with us.

The Government has, for example, published:

- The Statement of Intent on the EU Settlement Scheme²
- Immigration Rules for the scheme³
- Application guidance⁴
- Applicant information, which includes further guidance, support and information about processing times and the use of data⁵
- Applicant guidance on how to evidence UK residence⁶
- Applicant guidance on UK tax and benefits records automated checks⁷
- EU Settlement Scheme caseworker guidance⁸
- Toolkits for community leaders and employers⁹
- Guidance for employers¹⁰
- Guidance for landlords¹¹

Calls to the EU Settlement Resolution Centre

2. The Government must make calls to the EU Settlement Resolution Centre free to applicants. The goodwill extended to EU citizens through the Government's scrapping of the application fee will be undermined if they are charged to access advice and guidance about their application. (Paragraph 19)

The Home Office does not charge or receive revenue for this service. Calls to the EU Settlement Resolution Centre from within the UK cost the same standard charge as dialling any 01 or 02 number. Applicants may get free calls to some numbers as part of their call package. There is also an 02 number available for those calling from overseas.

Calls to the EU Settlement Resolution Centre are not the only way to access information and guidance about the EU Settlement Scheme. The Government has published a range of materials online to provide the public with further information and guidance about the scheme, with 15 million unique views on the main guidance pages¹² alone since they were launched on 20 June 2018 (to 3 July 2019). In addition, the Government is providing funding for 57 organisations across the UK to help vulnerable EEA citizens apply to the scheme.

2 <https://www.GOV.UK/government/publications/eu-settlement-scheme-statement-of-intent>

3 <https://www.GOV.UK/guidance/immigration-rules/immigration-rules-appendix-eu>

4 <https://www.GOV.UK/settled-status-eu-citizens-families>

5 <https://www.GOV.UK/government/collections/eu-settlement-scheme-applicant-information>

6 <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>

7 <https://www.gov.uk/guidance/eu-settlement-scheme-uk-tax-and-benefits-records-automated-check>

8 <https://www.GOV.UK/government/publications/eu-settlement-scheme-caseworker-guidance>

9 <https://www.GOV.UK/government/publications/eu-settlement-scheme-community-leaders-toolkit> and <https://www.GOV.UK/government/publications/eu-settlement-scheme-employer-toolkit>

10 <https://www.GOV.UK/guidance/employing-eu-eea-and-swiss-citizens-and-their-family-members-after-brexite>

11 <https://www.gov.uk/guidance/right-to-rent-checks-for-eu-eea-and-swiss-citizens-after-brexite>

12 <https://www.gov.uk/settled-status-eu-citizens-families>

No deal

3. The Government's plans for a 'no deal' scenario would leave EU citizens less than two years to apply under the Settlement Scheme. After this point, there would be considerable uncertainties about their status in the UK. Given this risk, there is no reason why the timeframe for applications should be curtailed compared to the circumstance of the UK leaving the EU with a deal. We also see no reason why an appeal right should only be available in the event of a withdrawal agreement being reached. Such an appeal should also be available if there is 'no deal'. The same applies to the independent monitoring authority. We also call on the Government to redouble efforts to seek a ring-fenced agreement on citizens' rights, and to update Parliament on what progress it is making and what obstacles remain. (Paragraph 25)

4. There are notable gaps in the Government's immigration proposals. The determination of the Government to end free movement on the date of departure if the UK leaves the EU without a deal could lead to a situation where long-term EU residents of the UK are, in the period between exit and the closure of the Settlement Scheme, disadvantaged and discriminated against in areas such as employment or housing if they are not able to evidence their entitlement to remain. (Paragraph 33)

5. The Government appears to hope that all EU citizens resident in the UK prior to exit day will apply to the Settlement Scheme right at the beginning, and that all later arrivals will register with the Government when they are required to. Given that this is highly unlikely—we discuss many of the reasons why individuals may struggle or fail to register later in this report—the Government must clarify how it intends to ensure that EU citizens in the UK, many of whom are entitled to live and work in the UK and who may have been residing here for many years, do not suffer any detriment in the event of a 'no deal' Brexit. Government ministers have alluded to a "sensible transition period": both EU citizens and those that wish to engage and interact with them post-Brexit, such as employers and landlords, need detail and certainty on this point. (Paragraph 34)

6. The Government must also clarify if, how and when hostile/compliant environment measures will be applied to EU citizens living in the UK. It is currently unclear, for example, whether the Home Office would contact, inform or pass data on to any agency, Government department or individual (such as an employer or landlord) following an applicant's unsuccessful application to the Settlement Scheme. (Paragraph 35)

The Government wants to protect the rights of EEA and Swiss citizens living in the UK, and of UK nationals living across the EU, in all scenarios. This is why – in the event of a 'no deal' scenario – we have guaranteed the rights of EEA and Swiss citizens resident in the UK by exit day and why the Government has sought the ring-fencing of the citizens' rights elements of the draft Withdrawal Agreement. It is also why we have reached separate agreements with the other EEA states and Switzerland on citizens' rights in the event of a 'no deal' scenario. The Secretary of State for Exiting the European Union wrote again to Michel Barnier on 17 June 2019 on the issue of ring-fencing, and we are now carefully considering our response to his letter of 18 June 2019.¹³ We hope that the EU will engage with this issue to ensure the rights of UK nationals in the EU are protected.

13 <https://www.gov.uk/government/publications/costa-amendment-letter-to-the-eu-institutions>

As set out in our ‘no deal’ policy paper published on 6 December 2018,¹⁴ we will continue to run the EU Settlement Scheme in a ‘no deal’ scenario, for those resident in the UK by exit day, but with a number of changes, as set out in that paper, to reflect the fact that there would be no Withdrawal Agreement and to support the transition from free movement to the future border and immigration system.

In a ‘no deal’ scenario, resident EEA and Swiss citizens have until 31 December 2020 to apply for status under the EU Settlement Scheme, compared with the 30 June 2021 deadline under the draft Withdrawal Agreement for those resident here by the end of 2020. In either scenario, the relevant deadline will help to ensure we grant status to resident EEA and Swiss citizens as soon as possible, to allow the new border and immigration system to be implemented in 2021.

Until free movement is ended by the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, the Immigration (European Economic Area) Regulations 2016 (the EEA Regulations), which currently govern the residence rights of EEA and Swiss citizens in the UK, will remain in place, as saved by the European Union (Withdrawal) Act 2018. Once the Immigration and Social Security Co-ordination (EU Withdrawal) Bill ends free movement and revokes the EEA Regulations, we will use the consequential power in clause 4 of the Bill to save the EEA Regulations for EEA and Swiss citizens resident in the UK by exit day, ensuring they have a legal status in the UK during this period and allowing them time to make their application under the EU Settlement Scheme.

The Government has made clear that there will be no change to the requirements for EEA and Swiss citizens living in the UK to demonstrate immigration status during this period and until the future border and immigration system is introduced in 2021. Until then, EEA and Swiss citizens will be able to demonstrate their status using their passport or national identity card, as they do now. This means that they should not be disadvantaged or discriminated against during this period as the Committee suggests.

Data on applications refused under the EU Settlement Scheme will only be shared with a third party in cases involving identity fraud or serious criminality. The ways in which the Home Office may process personal data it gathers under the scheme are clearly set out via the scheme personal information guidance page:

<https://www.gov.uk/guidance/eu-settlement-scheme-how-we-use-your-personal-information>

And the Border, Immigration and Citizenship System Privacy Information Notice, which is available here:

<https://www.gov.uk/government/publications/personal-information-use-in-borders-immigration-and-citizenship/borders-immigration-and-citizenship-privacy-information-notice>

Declaratory system

7. The Government has chosen to establish a constitutive system of registration for EU nationals who are currently resident in the UK and wish to retain their rights of residence after the UK leaves the EU. This places the responsibility on each individual

14 <https://www.gov.uk/government/publications/policy-paper-on-citizens-rights-in-the-event-of-a-no-deal-brexit>

to engage with the Government and to prove their entitlement to remain. The Government has also set a deadline for EU nationals to comply with this requirement. (Paragraph 51)

8. It is therefore unacceptable that, having chosen this approach, the Government has failed to clarify what will happen to EU citizens in the UK who fail to confirm their immigration status through the Settlement Scheme before the deadline. In giving evidence to us the Home Secretary himself appeared unsure what their status and rights would be, only alluding to a vague system that the Home Office “would want” to have in place to support those who might need assistance after the deadline. (Paragraph 52)

9. The Home Secretary’s prevarication over the word ‘unlawful’ with regards to the legal rights and status of EU citizens in the UK who fail successfully to apply to the Settlement Scheme before the deadline will not have reassured the UK’s estimated 3.8 million EU citizens. Whether they are resident legally or illegally will have serious consequences for their ability to live, work, and exercise associated rights in the UK, without risk of criminalisation and the possible consequences that might flow from criminalisation, including deportation. (Paragraph 53)

10. EU citizens residing in the UK before Brexit are right to expect to be able to continue to reside in the UK. We believe Government action is necessary to avoid consequences similar to those experienced by some members of the Windrush generation. The hardship and injustice experienced by those citizens, which we discussed in previous reports, is disgraceful. The right lessons must be learned. The Home Office must therefore:

- clarify the legal rights and status of EU citizens who, for whatever reason, fail to confirm their immigration status through the Settlement Scheme by the deadline. It should do so at least a year before the closure of the Settlement Scheme;
- outline what will be considered reasonable grounds for a late submission to the Settlement Scheme;
- confirm the details of its proposed process to enable EU citizens to establish their status in the UK retrospectively;
- clarify the legal standing of EU citizens, in the period between Brexit and the deadline, who have not yet applied to or completed the Settlement Scheme. It is vital that their rights and entitlements are clear and widely understood so that, compared with those who either have confirmed their status or who are not required to use the Scheme, they are not disadvantaged in employment, housing or medical treatment. The Government must state what their rights are, how they are to be evidenced, and what recourse individuals will have in cases of disadvantage. (Paragraph 54)

11. The Government has not provided sufficient justification for its decision not to take a declaratory approach in establishing citizens’ rights after the UK leaves the EU. The response of ‘Windrush’ does not stack up; the Immigration Minister’s assertion that “a declaratory system is not the answer” is not convincing; the requirement of

citizens to apply to the Scheme so as to formally identify as an EU citizen in the UK is entirely for the benefit of the Home Office, not the individual; and a declaratory system is not incompatible with accurate documentation. If a lesson is to be learned in this case from the example of Windrush, it should be that providing adequate documentation should be considered a vital part of any such status-giving process, whether declaratory or not. (Paragraph 68)

12. The Government could easily have afforded EU citizens certainty over their rights and secured their legal status by stating at the outset and in legislation that all who were here legally at the time of Brexit would remain so. They would then have been required to apply to the Settlement Scheme to obtain formal, physical confirmation of their status. Thus far, the Government has failed to mitigate the risk of thousands of EU citizens being left in an insecure legal position after Brexit, but there is still time for the Government to set this right. (Paragraph 69)

13. We call on the Government to confirm in primary legislation the rights of EEA nationals who are resident in the UK at the time of its exit from the EU. These rights include the right to remain in the UK, and to retain the associated rights they have thus far been afforded. No-one should be left without rights because they have not completed the Scheme. Individuals need certainty and should not be left reliant on the goodwill of a future Government to uphold non-statutory rights. Individuals should, however, be required to apply to the Settlement Scheme for documents to evidence their rights. (Paragraph 70)

14. We recommend that the Government amend the Immigration and Social Security Coordination (EU Withdrawal) Bill so as to provide for the automatic granting of settled or pre-settled status in the UK to anyone who would, under current Government proposals, be entitled to that status under the EU Settlement Scheme on the day on which the UK ceases to be a member of the European Union. The Settlement Scheme would function as currently proposed by the Government for people who arrive in the UK after this date. (Paragraph 71)

The Committee calls on the Government to introduce a so-called declaratory system which confirms the rights of EEA and Swiss citizens in primary legislation by automatically granting those resident in the UK an immigration status, but still to require them to apply to the EU Settlement Scheme for evidence of that status. The Government understands the reasoning behind the Committee's recommendation, but it does not agree that this is the right approach to securing the status of EEA and Swiss citizens and their family members in the UK.

In the future, free movement will end and everyone entering and residing in the UK will need a form of UK immigration status. Where resident EEA and Swiss citizens and their family members are concerned, the EU Settlement Scheme is a vital part of transitioning the UK from free movement to a new skills-based immigration system.

It is a well-established principle of the UK's immigration system that individuals must apply to the Home Office in order to be granted leave to enter or remain, under a so-called constitutive system. A notable exception were the Windrush generation, who were granted indefinite leave to remain (ILR) by statute, via a provision in the Immigration Act 1971.

A requirement to apply for individual status by a deadline provides a clear incentive for EEA and Swiss citizens living here to secure their status in UK law and obtain evidence of this. A declaratory system, under which they automatically acquire an immigration status, would significantly reduce the incentive to obtain evidence of that status. This risks creating confusion among employers and service providers and would have the effect of impeding EEA and Swiss citizens' access to benefits and services to which they were entitled. Such an approach would also lead to resident EEA and Swiss citizens who had not applied for proof of their status being discriminated against compared to those who had. This is exactly the sort of situation that the Windrush generation found themselves in and is something the Government is adamant that we must avoid.

We cannot have a similar situation where, years down the line, EEA and Swiss citizens and their family members who have built their lives here find themselves struggling to evidence their rights in the UK. Under a declaratory system there is no impetus to obtain evidence of status, so people tend only to apply for it when they need to, for example when applying for a job. However, this may be too late, as they will not be able to take up employment until they can evidence their status. It is important that we are as clear as possible about what individuals are required to do to evidence their status. A mandatory application process with a clear deadline that they understand will encourage people to apply now and not in an emergency situation years from now. People do not know when they might need to prove their status in future, but they do understand a simple deadline for action.

The Government devoted a great deal of thought as to how best to manage the end of free movement in the UK and transition resident EEA and Swiss citizens and their family members into the new border and immigration system in 2021, and we believe that the current approach under the EU Settlement Scheme is the right one. It is providing a quick and easy way for resident EEA and Swiss citizens and their family members to obtain the status they will need to continue living here and the evidence of this which they will need to continue accessing services and benefits in the UK as they do now.

Under the new border and immigration system, EEA and Swiss citizens who are in the UK before we leave the EU will have different – enhanced – rights compared to those who come afterwards. It is essential therefore that these EEA and Swiss citizens have the evidence they need to demonstrate their rights in the UK and make their life here easier in future. This is also why we are seeing many other EU Member States planning to take exactly the same approach and establish a constitutive system for UK nationals living there.

Once free movement here has ended, EEA and Swiss citizens will need to take a level of personal responsibility for their immigration status and the rights associated with this status. Individuals already ensure they can enjoy a range of services, for example, by ensuring they have an up-to-date driving licence. The EU Settlement Scheme is no different, and will mean that those who have built their lives here do not find themselves struggling to evidence their rights in the UK or having to carry around multiple bits of paper and documents to evidence their previous UK residence.

The Government has already made clear that people with reasonable grounds for missing the deadline for applications under the EU Settlement Scheme will be allowed to make a late application. That is what the draft Withdrawal Agreement requires, and it will also be

the case in a 'no deal' scenario. Such cases will be considered on their individual merits, but we will take a pragmatic approach and guidance for caseworkers will be published to ensure cases are considered consistently.

Digital status

15. We also recommend that the Government provide all citizens who successfully apply to the Settlement Scheme with hard copy confirmation of their status. This need not replace the digital system but would complement it. The Government cannot suddenly impose a 'digital first'—indeed, 'digital only'—system upon people without giving them, employers and landlords time to adapt. People can have the best of both worlds: a more secure and forward-thinking digital system in parallel with the more familiar and reassuring hard copy. We would hope to see new applicants being routinely provided with physical certification of their Settlement Scheme status by the end of the year, with documents provided retrospectively to those who have already completed the process. (Paragraph 72)

We welcome the Committee's recognition that the digital status system the Government is introducing is more secure and forward-looking. We agree that it would be wrong for the Government to suddenly impose a digital first or digital only system without giving people, including employers, landlords and other service providers, time to adapt. That is why we have been clear that EEA and Swiss citizens can continue to use their passport or national identity card to evidence their status in the UK until the new border and immigration system is introduced in 2021, and that there is no requirement for EEA and Swiss citizens to start using their digital status under the EU Settlement Scheme to evidence their entitlements until then either.

This provides a significant period of transition during which EEA and Swiss citizens can choose to use their digital status if they wish. We know from usage of the online right to work service that many of those who have been granted status under the EU Settlement Scheme are already using their digital status to prove their right to work. And our research with users indicates that many wish to use other online services to prove their rights across a range of circumstances as these services are developed.

Feedback so far on the digital status service has been positive. Users find it simple and easy to use. The service has been designed to be widely accessible and the great majority of users will not require any assistance accessing or using their status. 95 per cent of adults aged 16–74 years in the UK in 2018 were recent internet users, the third highest in the EU. However, we recognise there will be a small minority who do not find it as easy to use. That is why we have a call centre that can assist digital status holders to use the service.

The Government can assure the Committee that successful applicants will continue to receive written notice of their immigration status, by email or letter, which is an official document intended for individuals to keep. However, due to the possibility of fraud and abuse, this document cannot be used to evidence an individual's immigration status to external organisations. Instead, starting from 2021, they will increasingly be required to use the digital status service to do this, or have this information made available on their behalf through system to system checks.

Immigration decisions and the rights and conditions that flow from those decisions have been recorded digitally by the Home Office since the turn of the century, but physical documents, whether a stamp in a passport, a letter or more recently a biometric residence card or permit, have historically been issued to enable individuals to evidence their status and entitlements to others when required. These physical documents have evolved over time to address security weaknesses, but the risk of forgery and counterfeiting still exists, and any physical document may be lost or stolen or become out of date very quickly.

In addition, there are circumstances in which an individual's status document can be controlled by another person – for example, in cases of domestic violence, modern slavery and human trafficking. Moving to a digital status is a step forward in tackling those who seek to control others. A digital status is also easier to use for visually impaired users, who may have difficulty reading a physical document.

Since 2018, it has been increasingly possible for individuals to view the digital record of their immigration status held by the Home Office. This online status service, which is being used for the EU Settlement Scheme, enables individuals to keep their information up-to-date and share it in real time, helping to minimise any delay in accessing services. It also promotes the principles of data minimisation by sharing only the information required for the check, rather than all the information held on a physical document.

Non-EEA citizens granted status under other immigration routes can already prove their right to work digitally via the Employee Checking Service, and since this service went live in April 2018 there have been over 40,000 employer profile views. A similar service to enable right to rent checks is in private test phase and will be launched later this year.

We are introducing all these services well in advance of moving to a fully digital environment, allowing us to develop and improve the digital status service based on feedback, and to embed the concept of digital status amongst users.

The Government fully appreciates the cultural change this represents for many EEA citizens. Many Member States not only require an identity document to be held at all times, but some also enforce compulsory identification checks, for example by police officers. The UK does not have these requirements, nor are they part of our culture. The Government believes that the UK's methods of proving identity and rights do not have to mirror what other Member States may choose to do, but should reflect the wider direction of travel in the use of digital services and the advantages for users these bring over paper documents and cards.

We are committed to learning from what works to continue improving our offer. In response to feedback on the EU Settlement Scheme and the digital status service, we are working on enhanced communications for users. We are also monitoring all the different real world uses of digital status and will use this to inform future design and communications. It is important to stress that immigration status is not something that has to be used frequently, and we are committed to delivering an approach that enables users to demonstrate their status and access the services they are eligible for in the simplest and most secure way possible. Where those services are provided by government, for example health and benefits, it is right that individuals should only need to present their identity, for government to confirm their eligibility.

Awareness

16. The Government must improve public awareness and understanding of the EU Settlement Scheme, and of the importance of applying. Too many people are at risk of failing to apply, and this will have serious ramifications for their future in the UK. We welcome the Government's plans for a concerted national advertising and awareness campaign to accompany the full roll-out of the Settlement Scheme, which is not only digital but also accessible to those who may not have an online presence. In addition to this, we recommend that the Government works with local and national community and support groups, to ensure that information reaches hard-to-reach groups. (Paragraph 79)

It is essential that EEA and Swiss citizens and their family members living in the UK are aware of the EU Settlement Scheme and understand how and when to apply so that they can protect their rights and feel reassured about the future. That is why the Home Office has put in place a comprehensive communications and engagement plan for the scheme. We are using all available channels to reach our audiences – like direct marketing, presentations and events, publicity in the media, email updates, toolkits and webinars.

The scale of this activity reflects the Government's commitment to ensuring that all EEA and Swiss citizens and their family members across the UK understand what they need to do to secure their status. Our message has been the same since we began the process of leaving the EU: we want them to stay – whether we leave with a deal or without one – and it is our priority to ensure they continue to feel welcome here.

At the end of March 2019, we launched a new, highly visible national marketing campaign to encourage EEA and Swiss citizens and their family members to apply for status under the EU Settlement Scheme. The £3.75m campaign covered the whole of the UK through billboards, catch-up TV, radio, web banners, search engine advertising, social media and press adverts. Campaign activity will continue, using a diverse range of channels to achieve maximum awareness among groups who have not yet applied.

Alongside this campaign activity, the Government continues to undertake extensive direct engagement and outreach activity across the UK, including with businesses, local authorities and community organisations. Communications toolkits for employers and community leaders are available on GOV.UK to enable employers and other partner organisations to cascade information to EEA and Swiss citizens and their family members. We have also engaged extensively with the community and voluntary sector about how we can, together, communicate the EU Settlement Scheme to hard-to-reach groups. Communications materials have been translated into 25 European languages and Welsh. This includes applicant guidance, posters, a factsheet and videos.

It is vital that no-one is left behind, which is why the Home Office has announced that 57 organisations across the UK have been awarded up to £9 million in funding to help vulnerable or at-risk EEA citizens apply to the EU Settlement Scheme. These organisations, including disability and homeless charities, will provide support to an estimated 200,000 people, who may be marginalised or in need of extra help. They will increase awareness and provide support to the most vulnerable applicants, such as victims of human trafficking or domestic abuse, those with severe mental health conditions, those without a permanent address, and those who are elderly or isolated.

Vulnerability

17. It should not have taken such a length of time for the Government to make a clear and unambiguous statement on the rights of Zambrano carers under the Settlement Scheme and following Brexit. We welcome the clarity the Government has now afforded to this group, but it is unacceptable that these citizens were left in limbo for so long. (Paragraph 81)

We appreciate that Zambrano carers needed certainty about their future which is why, despite not being covered by the draft Withdrawal Agreement, we have provided them with access to the EU Settlement Scheme and a route to settlement in the UK which they do not currently have under EU law.

18. The Government must acknowledge the difficulties that will be experienced by many vulnerable groups when attempting to apply to the Settlement Scheme. A degree of understanding will be required so as not to disadvantage these individuals, together with a willingness by the Home Office to consider special circumstances and make exceptions to the process when circumstances dictate. Caseworkers should be trained in how to support and assist vulnerable groups. (Paragraph 86)

The Government welcomes the Committee's valuable input on vulnerable EEA citizens, and we reaffirm that ensuring that those who are the most vulnerable in society are supported to obtain status has always been, and continues to be, a core element in the delivery of the EU Settlement Scheme. We recognise that we need to reach out to and support a wide range of vulnerable groups whose needs will vary, including the elderly, those who cannot access or who are not confident with technology and non-English speakers. We are committed to helping vulnerable individuals to obtain their status under the scheme and we are providing a range of direct and indirect support to enable this.

The range of support includes help from the EU Settlement Resolution Centre and, where necessary, a caseworker will contact the applicant to discuss their application. All caseworkers have received training in recognising and handling more vulnerable applicants. Case studies provided by the safeguarding user group advising us on the development of the scheme have been integrated into the induction training and consideration of issues related to vulnerable applicants is mainstreamed throughout the training process.

A rolling series of vulnerability workshops is planned to ensure staff are able to enhance their knowledge, adopt best practice and continuously improve the quality of the service. So far this has included additional training with the Samaritans and a workshop led by the Windrush Taskforce.

We have also provided up to £9 million in grant funding to enable voluntary and community sector organisations across the UK to assist vulnerable EEA citizens to obtain their status under the scheme. This will enable those who are vulnerable and with more complex needs to access additional support to make their applications, such as language support and guidance on what they need to submit.

19. We welcome the Home Office's recent announcement that alternative evidence will be accepted as proof of identity and nationality, and that exceptional circumstances will be taken into consideration. However, the issue for vulnerable people is often not in proving their identity but in finding and accessing historical documents (such as bank

statements or employment payslips) which may be required to demonstrate continuous residence. The willingness to accept alternative evidence also still places the onus on the applicant to find and provide documentation, potentially from a time of trauma or abuse. The Government must not place vulnerable people in danger by requiring them to approach an abusive or estranged partner or parent for access to their records. The Government should therefore commit to undertake reasonable inquiries on behalf of applicants in instances where they are unable to prove eligibility or qualification due to circumstances beyond their control. (Paragraph 87)

We are making sure that the scheme is accessible and capable of handling vulnerable applicants with flexibility and sensitivity.

Family members, including non-EEA citizen family members, can apply in their own right providing their own evidence of eligibility; their application does not need to be endorsed or supported by an EEA citizen family member, and the EEA citizen does not need to have applied to the scheme. Former spouses and civil partners of an EEA or Swiss citizen who are victims of domestic violence will retain their right to reside here and be able to apply for status under the scheme in their own right.

In many cases applicants who elect to provide their National Insurance number will be able to demonstrate their UK residence using our automated checks of UK tax and some benefits records held by Her Majesty's Revenue and Customs (HMRC) and the Department for Work and Pensions (DWP)¹⁵ but, where they cannot as they have not been working or claiming relevant benefits in the UK, they will be able to use a wide variety of documentation as evidence of residence.¹⁶ This includes bank statements, utility bills or tenancy agreements, but also, for example, confirmation from other Government departments, local authorities, charitable or support organisations, educational institutions, doctors' surgeries or other healthcare providers of their contact with the applicant. We will consider any alternative evidence of residence that an applicant can provide and will work flexibly with applicants to help them establish their residence from the evidence available to them.

The same flexible approach will apply to a non-EEA citizen former spouse or civil partner relying on their previous relationship with an abusive EEA citizen to evidence their eligibility for status under the scheme. We appreciate that in such circumstances it may not be possible for the non-EEA citizen to obtain either evidence of their EEA citizen family member's identity and UK residence or of their relationship to that EEA citizen, and in those circumstances, we will work with the applicant to help them prove their eligibility by the most convenient means possible. This may include relying on evidence previously submitted as part of an earlier application under the EEA Regulations or another immigration route, or accepting confirmation from a trusted third party.

When the scheme launched fully on 30 March 2019, we introduced further provision for applicants to apply without a valid passport or national identity card where it is not possible for them to obtain or produce one for compelling practical or compassionate reasons, or due to circumstances beyond their control. This could include where the applicant is a victim of domestic abuse or trafficking.

15 <https://www.gov.uk/guidance/eu-settlement-scheme-uk-tax-and-benefits-records-automated-check>

16 <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>

We also allow applicants the opportunity for any correspondence relating to their application to be forwarded according to their preference, including to a third party, such as a support caseworker or other representative. This will enable victims of domestic abuse to be sure that any correspondence from the Home Office will not be intercepted by an abusive partner.

20. We are very concerned by the fact that large numbers of EU citizens are at risk of being left out by the EU Settlement Scheme. We understand that, due to the functioning of free movement, the Government cannot be expected to know exactly how many people are eligible or should be applying to the Settlement Scheme. However, we believe that the Government needs to take additional action, beyond general awareness and publicity campaigns, to ensure that extra support is targeted towards children and vulnerable people to mitigate the risk of them being left out and potentially jeopardising their future in the UK. (Paragraph 91)

21. To ensure that children and young people do not encounter difficulties in the future (for example, when applying for a passport or benefits), the Government must do the following:

- **Introduce a stage in the application process which prompts applicants to apply on behalf of any eligible children;**
- **Work with schools and local authorities to provide guidance and advice to parents who are EU citizens, explaining the circumstances in which they will be required to submit an application to the Settlement Scheme on behalf of their child/children;**
- **Require local authorities to undertake enquiries into how many EU citizen children are in care in their areas, and who may be required to apply to the Settlement Scheme;**
- **Provide additional support and guidance to local authorities regarding the applications of EU citizen children in their care, including directing them to where they can access legal aid and/or advice. Local authority employees cannot be expected to provide expert legal advice or services, especially as many cases for children and young people in care will involve complex circumstances. (Paragraph 92)**

22. The Government must work with as broad a range of public service providers and others as possible to enable them to provide reliable and acceptable evidence in support of settled status applicants who may only have a limited range of evidence available to prove eligibility. (Paragraph 93)

The Government has implemented a comprehensive vulnerability strategy, to ensure that we deliver a scheme which is accessible, and which handles marginalised or at-risk applicants with sensitivity and flexibility, according to their needs. A user group of external stakeholders who represent the needs of potentially vulnerable individuals was established early on in the development of the EU Settlement Scheme, and continues to play a vital part in working with us to ensure the right support arrangements are in place.

Arrangements are being implemented to provide a range of direct support offered by the Home Office and indirect support through third parties such as community groups and charities. Up to £9 million of grant funding has also been made available to enable 57 voluntary and community organisations across the UK to mobilise services targeted at vulnerable or at-risk EEA citizens to ensure that those who require the most support to apply to the scheme can access it. We believe that these organisations will have the best networks and expertise to support the most vulnerable.

Guidance has been issued to local authorities regarding their role and responsibilities for making or supporting applications for 'looked after' children. This includes information about where they can seek additional support, such as through a designated telephone number for local authorities to call the Settlement Resolution Centre. We have also been actively encouraging local authorities to identify their cohorts of 'looked after' children and care leavers who will be eligible for the scheme.

Additional support is also available to those EEA and Swiss citizens and their family members who do not have the appropriate access, skills or confidence to apply online. This includes nearly 300 assisted digital locations across the UK where people can be supported through their application.

We are paying particular attention to how we communicate the EU Settlement Scheme to children and are undertaking research in partnership with the University of Liverpool to develop age-appropriate communications materials. The purpose is to create materials that provide greater detail on the requirements for children applying to the scheme (and organisations making applications on behalf of children), as well as enabling children and young people to understand their legal rights as EEA or Swiss citizens in the UK. Alongside this, we are also working with a range of children's rights bodies to benefit from their insight, networks and communications channels to give children and young people wide access to these materials. We aim to have these child-friendly products in place by this autumn.

As set out above, applicants will be able to rely on a very wide range of documentary evidence of residence, and caseworkers will work flexibly with applicants to help them to evidence their eligibility for status under the scheme by the best means available to them and will be able to exercise discretion in favour of applicants where appropriate, to minimise administrative burdens.

Technical / digital

23. We understand why the Government has chosen to pursue a digital-based application process. However, as with the imposition of any new technological service, there will be teething problems, and many applicants will not feel comfortable or confident in using unfamiliar technology, especially for something so important. Given that both we and other Committees have drawn attention to concerns around the technical aspects of the Scheme, it is extremely disappointing that so many EU citizens experienced difficulties when the Scheme was launched. The Settlement Scheme has been open in private beta form since August 2018; this should have given ample time for sufficient technological systems to be devised and implemented. (Paragraph 102)

24. **The Government must, as a matter of urgency, investigate and remedy the technical issues applicants are reporting when attempting to use online Home Office systems.** (Paragraph 103)

25. **We welcome the Home Office's Assisted Digital service, which provides telephone and face to face support to applicants to complete the application form online. The Home Office must ensure that this service is adequately staffed so that it is available to all who need it, and also that applicants are adequately aware of this service, as take-up has so far been very low.** (Paragraph 104)

26. **It should be considered an error of judgement that the Home Office has so far based a system as vital as the Settlement Scheme on technology which is not easily accessible to vast numbers of applicants. Accessing the Scheme has required applicants to rely on friends or family to lend them a device, or to spend hundreds of pounds buying a new smartphone themselves.** (Paragraph 109)

27. **We therefore welcome the announcement by the Immigration Minister that citizens will be able to use a range of devices to make their application. We remain disappointed that an Apple version of the app is still not available. We call on the Government to work to expedite this process, as lack of iPhone and iPad accessibility will remain a barrier for a large number of applicants.** (Paragraph 110)

28. **We welcome the Government's provision of additional locations to support EU citizens in making an application to the Settlement Scheme. However, we are disappointed that applicants are still charged for using these services, and that there does not appear to be a standard charge, meaning that some applicants may have to spend more than others to complete the same process. We call on the Government to scrap the fees currently charged to applicants using one of the ID document scanning centres and to reimburse local authority centres for any costs they may have incurred in providing these services for the Government.** (Paragraph 116)

The EU Settlement Scheme fully opened on 30 March 2019 following extensive testing. As the Minister of State for Immigration informed the Lords EU Justice Sub-Committee in her appearance before them on 16 July 2019, according to the most recent internal figures, the total number of applications received under the scheme is now over 950,000, with over 850,000 people granted status. The latest monthly statistical report on the scheme was released on 18 July 2019.¹⁷

While a very small minority of applicants have experienced some issues with their application, we are satisfied that our processes for managing these issues have operated well, resolving the problem, keeping inconvenience to a minimum and ensuring that the applicant received regular updates on progress.

The Settlement Resolution Centre (SRC) has been set up to receive calls and emails to support applicants through the EU Settlement Scheme application process. The team of over 250 staff work across shift patterns of 8am – 8pm on Monday to Friday and 9:30am – 4:30pm at weekends.

17 <https://www.gov.uk/government/statistics/eu-settlement-scheme-statistics-june-2019>

The SRC has a direct relationship with the Home Office's technical support organisation, and can thereby facilitate rapid communication and resolution of issues where required. This is complemented by proactive monitoring and alerting to notify technical support teams of issues affecting applicants.

The EU Settlement Scheme application process is short and user-friendly, and is accessible on any smartphone, tablet or computer with an internet browser, including Apple devices. It is not necessary for an applicant to own or have access to an Android smartphone in order to apply and thousands of applicants have successfully applied without using the 'EU Exit: Identity Document Check' app.

The 'EU Exit: Identity Document Check' app is an optional aspect of the service which allows applicants to prove their identity remotely. The app is currently only available on Android smartphone devices, but as the Home Secretary confirmed at the start of April 2019, Apple will be making the necessary changes and the app will be working on their devices by the end of the year. We have worked closely with Apple during this period, but the Government was clear that we wanted to make this option to verify your identity remotely available to applicants at the earliest opportunity, which is why we released the app for Android in time for the second private beta test phase and well in advance of the full launch of the scheme. Applicants can also post their identity document to the Home Office to be checked and returned to them as soon as possible, or visit one of over 80 document scanning locations across the UK to have their passport checked.

Where applicants choose to use additional services provided by other parties, they may be required to pay a charge for that service. Although local authorities are able to charge to cover the costs of providing such services, there are a number of local authorities that have decided not to charge EEA citizens to access the identity document scanning service. This is, quite rightly, at the discretion of each local authority. Applicants have a range of other options available to them to prove their identity.

Incomplete information / evidence

29. We welcome the changes the Home Office has implemented to give more support to EU citizens making an application to the Settlement Scheme and its intention to exercise discretion in the applicant's favour. We hope that this approach will limit the number of cases in which an applicant receives a status under the Scheme which is not that which they expected. (Paragraph 129)

30. However, we are concerned by the Home Office's confident belief that all applicants are being granted the correct status. We would be highly surprised if it is the case that none of the thousands of people who have been offered pre-settled status under the Settlement Scheme so far are technically eligible for settled status but unable to prove it. As we have outlined throughout this report, there are many reasons why an applicant may not be able to provide sufficient evidence, despite the Home Office's pledge of a flexible and understanding approach. (Paragraph 130)

31. We are particularly disappointed by the Home Secretary's assertion that "The 'correct' immigration status is the status for which the applicant demonstrates that they qualify". This statement strikes us as callous, and rigid enforcement of this line would not be fair or just, as it would allow for the possibility of long-term EU residents

of the UK—who, for whatever reason, are unable to evidence their eligibility for settled status—being granted a lesser status than that to which they are rightfully entitled. (Paragraph 131)

32. We believe that the correct status for an EU citizen who has been legally resident in the UK for more than five years is settled status, regardless of whether they have complete documentary evidence to prove this fact. The implementation of a declaratory system, which automatically grants rights and status to individuals entitled to them, would be a fairer and more accurate way of attributing immigration status to EU citizens residing in the UK. We therefore repeat our recommendation that the Government amend the Immigration and Social Security Co-ordination (EU Withdrawal) Bill so as to provide for the automatic granting of settled or pre-settled status in the UK to anyone who would, under current Government proposals, be entitled to that status under the EU Settlement Scheme on the day on which the UK ceases to be a member of the European Union. The Settlement Scheme would function as currently proposed by the Government for people who arrive in the UK after this date. (Paragraph 132)

33. There will be cases when an individual who is applying for documentary proof of their status will have a gap in their record for which, through no fault of their own, they are unable to provide evidence. The Home Secretary told us that the Home Office will offer a flexible approach, will exercise discretion in the applicant's favour, and will look for reasons to grant status rather than to refuse. In cases where the balance of probability suggests entitlement to status but the evidential record is unable unequivocally to prove this, the Government should commit to exercise its discretion compassionately and confirm status to such individuals. (Paragraph 133)

34. The Home Office should act on the recommendation of the ICIBI and ensure that all caseworkers and staff involved in processing or assisting with applications to the Settlement Scheme fully understand how the Government's promise of flexibility and discretion in favour of the applicant is to be applied in practice. The approach of evidential flexibility, which we welcome, must be applied fairly and consistently. (Paragraph 134)

The Government agrees that the correct status for EEA citizens who have been continuously resident in the UK for five years or more is settled status (subject to criminality and security checks). The issue is how that residence can be demonstrated, so that we can grant applicants the status that will enable them to evidence their rights in future, rather than granting a blanket provision by statute as was the case for the Windrush generation which, as explained above, the Government considers would store up significant problems for the future for those EEA citizens and create confusion for employers and others. This is why the Government has carefully designed the scheme to enable applicants to demonstrate their residence through a wide variety of means and caseworkers are supporting them to do so.

Where an applicant elects to provide their National Insurance number in their application, the Home Office carries out automated checks of UK tax and some benefits records held by HMRC and DWP, to establish if this can evidence the person's UK residence, wholly or partly, for the purposes of their application.¹⁸ We allow applicants to provide both their name on their identity document and any other names that they have been known by,

18 <https://www.gov.uk/guidance/eu-settlement-scheme-uk-tax-and-benefits-records-automated-check>

e.g. maiden name, so that these checks cover as wide a data set as possible. Providing a National Insurance number is optional, and an applicant does not need to provide it if they do not want to or if they do not have one.

Following the automated checks, applicants whose data shows they have been continuously resident for five years do not have to supply any additional evidence of their residence. For those where the automated checks indicate less than five years' continuous residence, but that they have been resident in the last six months, the next question that they are asked is:

Which of these describes you?

- I have been continuously resident in the UK for **less than 5 years**
- I have been continuously resident in the UK for **more than 5 years** or I am eligible for early settled status

If the applicant declares “I have been continuously resident for less than 5 years”, no additional evidence of residence is asked for. If, however, they declare that they have been resident for more than five years (or are eligible for early settled status where particular criteria are met, for example on early retirement from work in the UK), we ask for additional evidence to that we have found from the automated checks, so we can consider the applicant for settled status.

For those where the automated checks indicate the applicant has been resident in the UK but cannot confirm that they have been resident in the last six months, the next question they are asked is whether they wish to provide evidence of five years' continuous residence to obtain settled status (or evidence that they are eligible for early settled status), or to provide evidence of residence in the last six months to obtain pre-settled status.

In all cases, it is the response to these questions that is the starting point for a caseworker's consideration, acknowledging the applicant's declared period of residence and working with them to ensure they receive the correct status.

So far, the proportion of settled and pre-settled status granted to applicants is broadly in line with expectations given our analysis of the Annual Population Survey figures for the resident EEA population. The total number of EU Settlement Scheme applications concluded, as of 30 June 2019, was 805,500. Of these, 65 per cent were granted settled status and 35 per cent were granted pre-settled status.¹⁹

The Annual Population Survey indicates that there are approximately 3.4m EU, EEA and Swiss citizens in the UK (excluding Irish citizens).²⁰ The Home Office estimates that around 60 per cent of EEA (excluding Irish) citizens resident in the UK in April 2018 – March 2019 were resident before 2014, and around a further 10 per cent are estimated to have been born in the UK, with the remaining around 30 per cent estimated to have arrived in 2014 or later.²¹ This aligns with the proportion of applicants so far being granted settled and pre-settled status.

19 <https://www.gov.uk/government/statistics/eu-settlement-scheme-statistics-june-2019>

20 Home Office analysis of Annual Population Survey April 2018 – March 2019

21 Home Office analysis of Annual Population Survey April 2018 – March 2019

We are taking a flexible approach to evidence of residence and caseworkers are able to exercise discretion in favour of the applicant where appropriate, to minimise administrative burdens.²² This includes in cases the Committee has highlighted where there are gaps in evidence, but the caseworker is otherwise satisfied from all the information and evidence available to them that the applicant has been resident in the UK for the period claimed. This approach is helping us to ensure that applicants are granted the status under the scheme for which they qualify.

Comprehensive caseworker guidance is available to caseworkers and Settlement Resolution Centre (SRC) staff, along with a range of additional material published on GOV.UK. This guidance is continually reviewed, with operational and policy colleagues working together to ensure that there is clarity in relation to evidential flexibility. Where a person has not provided the requisite evidence in their application, we will always contact them to discuss their application.

If a caseworker considers that a grant of pre-settled status is appropriate despite the applicant stating that they have been continuously resident in the UK for five years, they will proceed according to a clear process set out in the published guidance to ensure that the applicant has been given every reasonable opportunity to provide any further evidence and the appropriate flexibility has been applied.

We also ensure that this is covered in the training provided to SRC staff and that the requisite quality assurance mechanisms are implemented for senior caseworkers and line managers to confirm that evidential flexibility is exercised consistently.

Training modules have been successfully developed and rolled out to all caseworkers and SRC staff. The modules include policy training, caseworking guidance and customer service. The common thread through the practical scenarios is a focus on customer service to reinforce the ethos of looking for reasons to grant status rather than refuse. The training will continue to be reviewed and updated in light of feedback. To consolidate the training and further support staff, a network of senior caseworkers is on hand to provide advice.

Challenging decisions

35. We acknowledge that many EU citizens granted pre-settled status—correctly or incorrectly—will go on to qualify for settled status. However, this does not mitigate this issue. Applying for the Settlement Scheme is already a stressful process for many EU citizens as their rights and entitlement to remain in the country which is their home are conditional upon it. Forcing them into a further period of uncertainty until they are able to demonstrate to the satisfaction of the Home Office their eligibility for long-term leave to remain is unfair. It may also leave them at a disadvantage in interactions with employers or landlords, who may show preference for the security of a settled status designation. (Paragraph 135)

36. We are glad that the Home Office has provided applicants with the ability to challenge a decision they feel is incorrect. However, we remain concerned that there may be many EU citizens applying to the Settlement Scheme who, when offered pre-settled status against an expectation of settled status, may feel obliged to accept this incorrect decision, and fail to challenge it. This may be because they do not understand

22 <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>

the administrative review process and are unaware of their ability to challenge an incorrect decision; because they feel unable to prove their eligibility or residence; or most troublingly because, given the legacy of Windrush and the fear of being left without status post-Brexit, they feel the need to accept any status offered to them by the Home Office. (Paragraph 136)

If an applicant indicates that they expect to be granted settled status but the evidence for that status is incomplete, the Home Office will make multiple attempts to contact the applicant and help them to provide the evidence required. Where an applicant is granted pre-settled status rather than settled status, the decision letter will tell them that they can apply to have the decision reviewed by way of administrative review. This is also set out and explained in supporting guidance on GOV.UK: “How to apply for an administrative review under the EU Settlement Scheme”. Alternatively, they can apply again under the scheme and provide additional evidence of their eligibility for settled status.

37. The Government must provide information on how the Independent Monitoring Authority which is to oversee the EU Settlement Scheme will be structured, composed and resourced, and how it will function in practice. (Paragraph 137)

The Independent Monitoring Authority (IMA) forms an important part of the Withdrawal Agreement with the EU to protect the rights of citizens as we leave the EU. If the agreement is approved by Parliament, we will legislate to establish the IMA as part of the implementation process and undertake work to establish the IMA as an operational body. Further details on how the IMA will be structured and how it will function in practice are being developed.

Converting pre-settled to settled status

38. We understand that in many cases it should not be necessary for applicants to provide dates and details for their residency in the UK, as automatic look-ups to DWP and HMRC data should confirm this information. But, for those individuals whose records are incorrect or incomplete, requiring this information to be submitted should highlight an issue before an incorrect status is offered. (Paragraph 143)

39. We therefore welcome the changes recently made to the application process, which ask applicants specifically to confirm whether they have been resident in the UK for more than five years. We hope that this information acts as a fail-safe, highlighting cases in which further information or documentation may be required and taking the onus from the applicant to challenge an incorrect decision. (Paragraph 144)

40. Individuals granted pre-settled status will be able to apply for settled status in the future once they have accrued—and are able to evidence—five years of continuous residence. However, it is unclear how this process will operate. The Government must clarify:

- **how individuals will apply to graduate from pre-settled to settled status;**
- **when they will need to apply (e.g. after reaching five years continuous residence, or in a period before reaching that milestone);**
- **what evidence they will need to provide; and**

- **what will happen to individuals who do not apply for settled status after accumulating five years of continuous residence, or who still cannot prove the required residence period of five years.** (Paragraph 151)

41. In order to minimise the risk of citizens forgetting or failing to apply we recommend that the Government take responsibility for formally notifying individuals with pre settled status when they may be eligible to apply for settled status. This should be done at least three months before the date at which they will become eligible, to give individuals sufficient time to collect any evidence or documentation they may require. The notice should outline both the process the applicant needs to follow and what, if any, evidence they are required to provide. (Paragraph 152)

The information on GOV.UK, and in the decision letter issued to those granted pre-settled status under the EU Settlement Scheme, makes it clear that they will need to apply to the scheme again if they wish to be granted settled status, and that they can do so at any point at which they qualify for settled status; they do not need to wait until the end of the five years' leave granted to them as pre-settled status. The evidence requirements for settled status will remain the same and, where the applicant elects to provide their National Insurance number, we will seek to use the automated checks of UK tax and some benefits records held by HMRC and DWP to establish evidence of five years' continuous residence in as many cases as possible.

Applicants granted pre-settled status will begin to become eligible for settled status once they have accrued five years' continuous residence (or become eligible for settled status without five years' continuous residence, where particular criteria are met). Those granted pre-settled status will be able to apply for settled status when they think they qualify for this.

The online process which will allow an applicant to apply to 'convert' their pre-settled status to settled status is on track to be available from end-July 2019. In submitting their further application, the checks of identity, residence and suitability will be repeated. They will need to verify their identity via the app or by posting in their identity document, and, if they choose to provide their National Insurance number, fresh automated checks of UK tax and some benefits records held by HMRC and DWP will be undertaken to try to establish their five years of continuous residence, to minimise the need for documentary evidence of residence to be submitted.

We are considering how to implement a reminder system to prompt those whose pre-settled status is about to expire, and who have not yet applied for settled status, to do so if they are still in the UK and intend to remain here.

42. The Home Office also needs to outline how it will determine that an individual should lose their settled status due to an absence of more than five years, and how it will make clear to those granted pre-settled status the conditions under which they may lose the right to apply for settled status later. It should also clarify how absences which may affect an individual's entitlement to settled status are to be calculated—by calendar year, on a rolling 12-month basis, or in any chosen 12-month segment. (Paragraph 153)

A person's settled status will lapse if they are then absent from the UK and Islands (the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man) for more than five consecutive years; a person's pre-settled status will lapse if they are then absent from the UK and Islands for more than two consecutive years.

To qualify for settled status on the basis of five years' continuous residence, a person granted pre-settled status will need to maintain their continuity of residence in line with current free movement rules (as provided for by the draft Withdrawal Agreement). This includes not being absent for more than six months in any rolling 12-month period, unless this is for a good reason (such as an overseas posting), in which case they can be absent for a single period of up to 12 months. This is made clear to the person in the information enclosed with their decision letter.

Absence for these purposes is simply defined as not being in the UK (or, in most cases, the Islands) and the clock restarts each time the person returns, even if this is for less than a day.

Systems and resourcing

43. Given the legacy of Windrush, the Home Office knows that it has much work to do to regain the trust and confidence of citizens when it comes to establishing and confirming their legal status in this country. Witnesses have so far been largely positive about their interactions with the Home Office during the pilot phases, and we welcome this. However, the Home Office has only had to deal with a very small cohort so far: now that the Settlement Scheme is fully open the department will be faced with over one hundred times more applications than it handled during the private pilot phases. (Paragraph 175)

44. The concerns raised by the Institute for Government and the Independent Chief Inspector of Borders and Immigration, and the recent failure of the Passport Office website when faced with a surge of applications, do not give confidence as to the resilience of Home Office systems. In addition, if the ratio of one query for every two applications seen during the pilot phase were maintained throughout the duration of the Settlement Scheme, we would have serious concerns over the ability of the Home Office to handle and satisfactorily resolve every issue without increasing its staffing and technological capacity. (Paragraph 176)

45. The Home Office must ensure that it has sufficient human and technological capacity to handle the workload of applications and inquiries that the Settlement Scheme will attract. This will require robust digital systems and the hiring of more caseworkers, with extra surge capacity for the inevitable rush both now at the start and towards the end of the Scheme. They must be adequately and appropriately trained, particularly on the issues likely to be experienced by vulnerable applicants, so that they are able to handle inquiries in a sensitive and timely manner. This is important to prevent a backlog of cases and further delay and uncertainty for EU citizens. Almost 10% of cases were outstanding a month after the close of the second pilot phase, and many vulnerable applicants waited many weeks for a decision. A repeat of this for the whole cohort of EU citizens would not be acceptable and would further damage public perceptions of and confidence in the Home Office. (Paragraph 177)

46. The Home Office must ensure that its IT system is capable of producing comprehensive management information and data, as recommended by the ICIBI. Regular reports on how the Scheme is performing—including the number of applications, their outcomes, how long they are taking to process and resolve and details on applicant satisfaction, as well as lessons learned and proposed improvements—will be essential for building public confidence that the Scheme is working as intended for both EU citizens and the Home Office. We appreciate the reports which have been made available covering the private and public test phases and we believe that similar reports should be produced and published at regular intervals now that the Scheme is under way. We are pleased that the Government has committed to provide regular statistical updates. (Paragraph 178)

The EU Settlement Scheme has been developed to be as simple and user-friendly as possible. To support this, we have designed a digital casework solution that automatically streams cases to appropriately trained caseworkers according to the applicant's circumstances. These include:

- Applicants who have confirmed the residence period indicated by the automated checks is correct, so no further evidence of residence is required;
- Applicants where the automated checks have not fully confirmed their residence period and they have provided supplementary evidence or this needs to be requested;
- Non-EEA citizen applicants who are family members who need to provide fingerprint biometrics; and
- Cases where safeguarding or vulnerability may be a factor.

Caseworkers are multi-skilled across these workstreams. Case flow workstreams are monitored dynamically using real time reporting so that caseworkers can be quickly assigned to higher demand during peak times.

We are committed to ensuring that our operational teams have the resources they need to run an efficient and effective system. Resource and staffing requirements are continually reviewed to meet operational demand. This means that we are able to deploy extra resources flexibly as and when they are required.

Across the test phases we developed our understanding of the casework flows, and over the opening weekend alone after the scheme opened fully on 30 March 2019 we dealt with over 50,000 applications. Development of effective management information to help manage performance is ongoing.

As noted in the Independent Chief Inspector of Borders and Immigration's report,²³ inspectors saw evidence of extensive quality assurance across elements of the EU Settlement Scheme, including casework operations and the Settlement Resolution Centre.

23 <https://www.gov.uk/government/publications/an-inspection-of-the-eu-settlement-scheme>

Following the first²⁴ and second²⁵ private beta test phases and the public beta test phase²⁶ we published reports on a variety of elements of the scheme, for the information of Parliament, key stakeholders and the public. Since April 2019 we have begun publishing monthly EU Settlement Scheme statistics²⁷ and a more detailed quarterly Official Statistics report on the scheme will be published from August 2019, alongside the Home Office quarterly Immigration Statistics.

24 <https://www.gov.uk/government/publications/eu-settlement-scheme-private-beta-1>

25 <https://www.gov.uk/government/publications/eu-settlement-scheme-private-beta-2>

26 <https://www.gov.uk/government/publications/eu-settlement-scheme-public-beta-testing-phase-report>

27 <https://www.gov.uk/government/statistics/eu-settlement-scheme-statistics-june-2019>