

Issues with the EU Settlement Scheme and EU citizens' rights post June 30

It has been nearly two months since the EUSS deadline passed. Overall, the total number of applications received up to 30 June 2021 was 6,015,400, according to the Home Office, - 291,200 in Scotland-

However, despite such an impressive figure, we don't share the feeling of success shown by the UK Government. When the scheme was launched, they underestimated that 3 million of EU citizens would need to apply to the EU Settlement Scheme -210,000 in Scotland-. With no official registers and based on how wrong that estimate was, we can be very certain that some people have been left behind and lost their rights overnight. The EUSS deadline might have passed, but for these people, the real trouble has just begun.

This has been anything but a straightforward process because the Home Office has been developing and changing the EUSS rules ad hoc. Due to many changes introduced very quickly, with no detailed explanation about how to interpret new rules, it is being very difficult for EUSS advisers to keep up with the new procedures. Some of our advisers, especially our volunteers, have felt overwhelmed with all these changes, almost feeling scared to provide any advice in case they give our clients the wrong information.

For instance, at the very end of June, the Home Office allowed people with expired ID documents to apply online. In our opinion it was too late, and it wasn't announced effectively. If the advisers new about this possibility earlier or it was introduced earlier, many time-consuming paper applications could have been done online, which would allow us to help more people.

Moreover, people who applied via paper applications were issued letters confirming that their application has been received but the letter stated that this is not a Certificate of Application. Employer Guide was updated to explain that this could be used to prove the right to work, but it caused a confusion and not many people (including employers) managed to follow all the recent changes in the guidance.

To make things worse, since July, there has not been a clear way for support organisations to obtain up-to-date information about new changes or specific cases. Advisers in the Resolution Centre clearly have problems with receiving and processing the updates as well, as they often are unable to provide a satisfactory explanation to the advisers from support organisations who have been noticing new changes in the caseworker guidance, government website or even media announcements (like in the case of online applications for people with expired IDs).

Below, we are listing some of the issues we encountered recently and those that we

- **Advisers in the Resolution Centre sometimes provide contradictory advice.** EUSS advisers speaking with different people in the RC can sometimes receive different advice on the same matter. This results in doubts in information received from the Resolution Centre and with very broad guidance on the Government websites, EUSS advisers must often wait for more detailed explanation of the recent changes from the immigration lawyers. The biggest consequence of this issue is that EUSS advisers are not able to act immediately when the new opportunities or protections for EU nationals arise. Acting for the best interest of their clients they choose to wait for more clarity, than providing advice that they are not 100% certain.
- **Refused applications.** The Home Office has been pausing applications for people with criminal convictions. In some cases, the backlog is two years and more. Many fear that all refusals will be issued at once, which will mean there will be a lack of capacity on the end of immigration advisers to process appeals within the strict time frame.

- **Confusing letters** were sent to thousands of EU citizens asking them to apply to the EU Settlement Scheme despite them having settled or pre-settled status already. They seem to be based on cross-checking from different departments like HMRC and DWP, which make us worry that some people with valid immigration status might lose access to their benefits due to the Government's mistake. Many support organisations have been contacted by anxious and panicked EU citizens. What is worse the letter puts responsibility for correcting the mistake on EU citizens:

"If the applicant is a British or Irish citizen or if they believe they already have a valid UK immigration status and have got this letter in error, please contact 0300 105 0888 (lines will be open 09:30-4:30pm Monday – Friday) within 28 days of the date of the letter so we can update our records"

However, it is almost impossible to get through the line provided and many people have been forced to wait for hours or have not managed to speak to anyone at all, to update their records. To make things worst this excludes people who is unable to contact that number. We had a deaf client that was left very distressed by this letter and was unable to contact the Home Office because there was not an option for them.

- **Applications to bring family members to the UK.** Joining family members who apply from abroad are waiting for a long time for a decision which prevents them from joining their family in the UK sometimes for months. It would be easier if they could arrive in the UK even when their application is pending, but the official position of the Home Office is that they must wait for the decision before arriving to the UK.
There is also some confusion around the process as well - The Home Office has introduced some new changes recently, allowing some family members applying to the EUSS from within the UK, however the new guidance is confusing and even the immigration solicitors differ in their interpretation of the rules and are not able to advise us on the exact provisions of the new exception.
Many people's lives are put on hold due to the delays and their inability to travel before they get an outcome.
- **People who need to move from pre-settled to settled.** If they were vulnerable when they applied for pre-settled, they are likely to also encounter barriers when applying for settled status. They will need access to the free support in the future. Also, campaigns reminding them about the need to switch to settled status will be necessary as in few years' time Brexit and EUSS will fall off the main agenda for media and for many people.
- **People have issues with proving their right to work because:**
 - a. they have language or IT barrier
 - b. the online system crashes
 - c. their employers ask them to do it in unaccepted way (e.g. to attach the document proving the status) – we can add the 3million report
 - d. their employers don't know what to do when someone has pending application and is unable to generate the share code
- **People with no confirmation regarding their paper applications submitted in June.** This means that many people don't even have Certificate of Application to prove their rights in the UK, even though they applied on time.

- **Discrimination** of EU people at work, at colleges, at universities, because some people don't know how to generate the code, some others will not have results of their EUSS applications before next year.
- **Lack of protection** for those who have been treated unfairly by their employers or landlords who did not understand their rules. People might have been fired or were refused a job because they are waiting for a decision and are not able to generate the share code
- **Problems at the borders.** We haven't had a client like that yet, but we've all seen the headlines. As a result, many people are worried and scared, and postpone travel plans. This adds more anxiety to already confusing travel restrictions caused by Covid-19. Let's remember that for many EU citizens travelling between the UK and the EU is not necessarily about going on holiday but also visiting their family and friends that they haven't seen for a long time due to the pandemic.
- **Insufficient specialised Level 2 immigration advice provision**, which means that cases that are time sensitive (i.e: appeals, reviews, but even Late applications) might miss their deadlines.
- **Lack of general awareness and understanding** among service providers and employers about the EU Settlement, the Certificate of Application and late applications as a consequence of last-minute ad hoc changes on EUSS rules. There is a need for an extensive awareness raising campaigns and trainings.
- **Lost documents.** Both the Home Office and the post office lose documents even at the best of times. Now they will be inundated with documents, not linked with any application number.
- **Lack of physical proof of status.** We have encountered many vulnerable people who are not able to log onto their digital profiles due to their physical or mental disabilities/impairments, old/young age, language or IT barriers. This creates an obvious problem as these people are not able to prove their status and there is neither little if no support available, nor understanding or empathy expressed by organisations and departments who need to ask the client to check their status.

Lastly, it is important to highlight that, on top of continuing to provide support we need to make sure we continue raising awareness. As we move forward away from the deadline, people will forget more and more about the scheme, and it will be even more difficult to reach out to the most vulnerable ones. We need to make sure that we continue engaging with key stakeholders in local authorities, third sector organisations, community groups, EU citizens, etc.

Support organisations like Citizens Rights Project are doing their best to help most vulnerable EU citizens and their family members, however, without further funding and Government's policy to keep reaching EU citizens and provide proper information, many of those who relied on our support will be left alone.