



## **Report analysis on late applicants to the EU Settlement Scheme supported by Citizens Rights Project advisers**

Citizens Rights Project has supported 59 clients with late applications since 1 July 2021. This represents 15 per cent of our clients from the deadline of 30 June 2021.

We have identified 14 clients who approached our project because they either wanted to know if they were eligible to apply to the EUSS or because they applied and got a refusal. After checking their circumstances, we concluded they were not eligible for immigration status under the EU Settlement Scheme. We cannot confirm if these clients have left the country and/or sought further legal advice as we told them. This means that some of them could be overstayers and No Recourse To Public Funds. These cases involve people who moved to the UK after 2021. Some of them –not all- applied to the EUSS, unaware that they were not entitled to apply or because a friend or family member advised them to do so.

They represent 23.7% of our clients needing support with late applications and 3.5% of the people we have supported with EUSS cases since the deadline.

This means that the great majority of the people who approach our project with queries related to the EUSS are eligible to apply, and more than 75% of late applicants who have been supported by our advisers have the right to apply for pre-settled or settled status.

In our experience, people who applied without being eligible are unaware they are not entitled. This is, partly, due to a need of more awareness about the scheme outside the UK. Many people outside the UK do not understand the implications of Brexit for EU nationals who wish to move to the country after the end of the transition period. In some cases, they may also be encouraged by prospective employers offering working opportunities in the UK unaware that they may need to apply for a visa under the new points-based system.

Below are some case studies of late applicants eligible to apply to the EU Settlement Scheme. We have categorised them under different reasonable grounds.

### **Survivors of abusive/controlling relationships**

A French national based in Isle of Seil who has just come out of a controlling relationship. He contacted our project in December 2022 with the help of his neighbour who is also currently offering him shelter as he has no income. The client is entitled to apply for settled status because he has resided in the UK for more than 30 years, but he has not applied because his ex-partner destroyed all his ID documents. Also, this was not a priority or something he could think about while trying to ying to navigate and survive a situation of domestic abuse. On top of this, during this time he also lost his brother. In the past, he tried to renew his passport but encountered two barriers, Covid-19 and the fact that he needed to travel to London to renew it. The client does not have the economic means to pay for the trip and the



admin cost of getting a new ID. We approached our board member, Christian Albuissou, who is also President du Conseil Consulaire d' Edimbourg and he has raised this case with the French Consul in Edinburgh. He also submitted the case to the Societe Francaise de Bienfaisance and they have agreed to send the client £300 to help him with the paperwork. They will probably also help with the cost of the trip. We are still waiting to hear about getting an appointment for his passport. If this take too long, we may decide to submit a paper application.

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In March 2022 we supported a single mother with a child in obtaining passports for her and her daughter from the Polish Consulate. As we managed to obtain a temporary passport for the client immediately (it was needed on the day to apply for the child's passport), we submitted her application at the same time at the Polish Consulate. The client was living in Fife in temporary accommodation after leaving her controlling partner. She desperately needed her status in order to receive social support. However, it was very difficult to obtain evidence of her residence in the UK for a continuous period of 5 years.

We have tried to obtain a letter from her daughter's school but were unsuccessful. We failed to receive documentation from her GP, as she changed the GP practice in the meantime. Luckily after several weeks, we have managed to receive a letter from the local Council confirming that she has been living for the past 6 years in the Council flat, and then temporary accommodation provided by the Council. Working on the case has been particularly difficult as the client had difficulties to focus on information provided and did not have the confidence to act independently (e.g., in contacting different institutions) which might be explained by her past traumatic experiences. She was finally granted settled status in June 2022.

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Referral from a Local Authority Children services department. A young, vulnerable Polish mum with pre-settled status and a history of DV at the hands of her parents and her former partners. CRP had a number of conversations with Social workers involved in the case regarding status for her taken into alternative care son. CRP helped to organise a Polish passport for the child, we also supported them with making the application to EUSS and he now has pre-settled status. In 2021, the mother had another child which was taken into alternative care at birth. Another team taken the case over and to fully understand the EUSS requirement, our higher-level advisor Andrew Jordan explained to the responsible for the case social worker that the child can have both EUSS and British passport as father is already settled. Because of the various difficulties, we started the process and helped the mum to secure a legal appointment at the consulate to allow for the transcript of the UK birth certificate and translation into Polish. This has now been done and the next step is to make an appointment at the consulate for the Polish passport to be done but again, due to various difficulties between the parties, the appointment hasn't been secured and the child is now 23 months old and doesn't have any status in the UK yet.



### **Other compelling practical or compassionate reasons**

A couple of students, one from Spain and one from Germany, who started their studies at the University of the Highlands and Islands in September 2020. During their first year, 2020-21, the course was taught online due to the Covid-19 pandemic and they both remained in their home countries. On course year 21-22, the university announced that they would return to in-person classes. Due to this, both students applied for student visas to enter the country. They never considered applying to the EU Settlement Scheme because they were unsure of their eligibility. Their priority was ensuring they could enter the country and continue their studies. It was later, after reviewing government guidelines, that they considered they could be eligible to apply for pre-settled status because they have evidence to prove that they were absent from the UK due to the Covid-19 pandemic. Clients approached CRP to confirm this, and we are helping them gather evidence and write a cover letter to upload with their late pre-settled application.

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Dutch national married to a British national. The client applied for a EUSS Family Permit from the Netherlands to join his wife in the UK. He was advised not to enter the UK until he got the permit. While waiting, he listened to some news about EU nationals being refused entry into the UK and became worried. He didn't know when he would receive the outcome of his application, and the Home Office was only telling him that his application was being processed. Worried about his situation, he decided to hire a lawyer to get advice. Understandably, the lawyer could not guarantee the success of his EUSS Family Permit application and offered him two options: wait for the outcome of the application or withdraw the application and apply for a Family Visa. The client decided to take the second option as it seemed faster. He decided to contact our project because reviewing the eligibility criteria for joining family members under the EUSS, the client realised that he might meet the criteria. Besides, with an immigration status under the EUSS, his rights would be more protected than with a family visa. We referred this case to our level 2 Immigration Advisor and, on the first appointment with the client, we discovered that he was in the UK with his wife staying at a hotel before the end of the transition period while looking for a job. He was advised to get in touch with the hotel to get a letter so we could help him to submit a late application for pre-settled status.

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A 34 years old Polish female who reached us via email. She originally applied to the EUSS before the deadline, on 01/01/2021. Unfortunately, she was in Poland at that time and was unable to prove her years in the UK and her application was denied. The second application, made on 10/06/2022 was also denied as she wrongly applied as a joining family member. She applied for the 3rd time in August 2022 and contacted Citizens Rights Project for help explaining that her language skills and understanding of



EUSS rules are limited. Our organisation made sure that the correct evidence and appropriate cover letter were attached to her application.

The background information is that she had arrived in the UK in August of 2008 and she started her employment almost straight away. She has 2 children, born in 2009 and 2013 in the UK and after becoming a mum, she continued with various employments and graduated college in the UK. She went to Poland in July 2018 to spend the summer there, but this was extended by the deteriorating health of her grandmother and therefore, she stayed in Poland helping to look after her. The client wanted to return to the UK but unable to secure employment and unsure of the future she was forced to stay in Poland due to the Covid-19 pandemic.

Between 2018 and 2020 she visited the UK 8 time during short trips from Poland.

CRP helped the client to provide appropriate evidence and prepared a thorough cover letter. The client, as directed by CRP attached all documents to her application at 9pm on 12/12/2022 and 12h later, at 8.40am the next day she received an email from the HO informing her that she is now Settled in the UK.

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A married couple from Romania who moved to the UK on 17/8/2015. Their daughter was born in Dundee on 3/5/2018. In January 2019, they were forced to go back to Romania as the father of the husband was declared a missing person, and they needed to attend Romanian Court several times. As their financial situation did not allow them to travel back and forward, they decided to relocate to Romania for 2-3 months to be able to attend the court hearings and finalise the process. Their return to Scotland got delayed due to the Covid-19 pandemic. Moreover, in June 2020, the husband got covid and he had a very long period of recovery. After all of this, they were able to come to Scotland on 8 October 2022. They were unaware they could apply to the EU Settlement Scheme from abroad, so they applied as soon as they arrived in Scotland. Their application was refused because they did not provide evidence of their residence in the UK. At this stage, they approached our volunteer Andreia Serban. As they are no longer allowed to submit admin reviews, we will be helping them to submit late applications with the necessary evidence to prove their previous residence in the UK and their long absence from the country.

#### **Limited digital skills to access the application process**

In two cases, we had Polish nationals who were stopped at the border when coming back from holiday in Poland due to the lack of immigration status. Both have been handed 28-days' notice to submit the application to the EUSS and both were convinced that they applied for status in the past with help of their friends who speak English better and should have been granted it. One case was from January 2022 and one from May 2022.

After careful analysis of what might have happened, we discovered that they indeed attempted to apply to the EUSS before the 30<sup>th</sup> June 2021 deadline. When we tried to access their application on the



Government website, however, there was no trace of any past applications. When we proceeded to apply again using their passports, the system recognised the document and automatically sent the access code to the phone number, which indicates that they must have applied before. One of the clients even had a text with the access code on his phone that he received from the Home Office on 30<sup>th</sup> June 2021. When we tried to submit both applications, we were asked to verify the email address, which is a step without which submitting the application is impossible.

This shows that in two separate cases, individuals completed their applications with help of their friends but did not in fact submit it as they forgot to verify their email addresses (which must be done within 24 hours from completing the application by clicking in the link in the email from the Home Office, which sometimes lands in the spam folder).

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A Polish male who originally applied to the EUSS before the deadline, on 18.05.2021. Unfortunately, he was wrongly advised by his friends and applied as an adult son of his 'settled in the UK' father, and consequently his application was refused in November of last year, while he was in Poland. The client returned to the UK on 18.03.2022 and immediately arranged an appointment with Citizens Rights Project which allowed him to fully understand the reasons for the EUSS refusal. The client originally arrived in the UK in 2016 and worked through a job agency. In 2017 the family returned to Poland, a month after his first child was born and his grandfather who suffered from cancer required full-time care. He passed two months after their return to Poland. At the end of 2018, his wife fell pregnant again and had another child. The client always wanted to return to the UK, so all the family arrived in Britain on 07.03.2020, at the beginning of the Covid pandemic. Unsure of the future, and unable to secure employment, the whole family chose to return to Poland on one of the government flights available at the time, just a couple of weeks later and returned to work in Poland. We asked the Home office to reconsider his application on the grounds, that he did apply on time, but due to insufficient language skills and lack of knowledge he wrongly chose to apply as a son of a settled father, without fully understanding the requirements. We advised him that he can apply in his own right based on the time he spent in the UK, before the Covid-19 pandemic and applied important reason for absence, under Appendix EU, based on the evidence presented to the HO. CRP helped the client in March 2022, we spoke to the HO and the client on numerous occasions, submitted all required evidence and after amending his cover letter on 10/11/2022, the client received pre-settled status on 11/11/2022.

### **A serious medical condition**

A Polish national approached us for support in November 2021. He was hospitalised for over 4 months due to surgery in which doctors had to remove one of his vertebrae, immobilising him for a few months. When he started recovering from this surgery, he was diagnosed with cancer and had one of his eyes removed. For this reason, he was unable to apply to the EUSS on time. Furthermore, before he started



experiencing health issues, he was arrested, and his national ID has been held by the Edinburgh Sheriff Court for the time of processing his case.

It took us nearly two months to complete his application as we needed to obtain an official copy of his National ID card from Edinburgh Sheriff Court, receive legal advice from a higher-level solicitor and gather all necessary medical documentation as evidence for the reasonable grounds to apply late. The process was particularly difficult, as until mid-December, the client was not able to move from his bed and was also hospitalised in the meantime. Most of the time, we were able to communicate with him over the phone, and we could hear that he was constantly in pain, so we try not to exhaust him with long conversations. The client is still waiting for a decision on his application as his case in court has been postponed. We are constantly monitoring his situation and contacting him from time to time to check if his court case has finally been resolved.