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House of Commons
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30 OCT 2018

Dear Kate

Thank you for your letter of 29 August regarding the EU Settlement Scheme for resident EU citizens and their family members to obtain the UK immigration status which they will need to continue living here permanently.

I am very keen that we ensure that we provide the right access to the scheme for all those who will need to obtain status under it. In particular, we have established a user group focused on the needs of potentially vulnerable users to help us to design and develop the application process and to consider the support which different groups may need in using this and the best ways of engaging and communicating with them. I am grateful to those representatives of the Roma community who are involved in the work of that user group.

You asked for clarification on several aspects of the scheme.

Suitability

As you mention, there will be a high threshold for criminality-based refusals under the EU Settlement Scheme, consistent with the draft Withdrawal Agreement which provides that conduct (including any criminal convictions relating to it) before the end of the implementation period on 31 December 2020 will be assessed according to the current EU public policy tests for deportation, as set out in the European Economic Area (EEA) Regulations. This involves consideration of whether the person is a genuine, present and sufficiently serious threat to the fundamental interests of UK society, on grounds of public policy or security, such as to justify refusal of status and deportation. This consideration will continue to be conducted on the same, case-by-case basis as now. The relevant guidance can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/668087/EEA-Decisions-taken-on-grounds-of-public-policy-3.0EXT.pdf

You queried the inclusion in the suitability provisions for the scheme of paragraph EU15(c) of Appendix EU. This provides for the refusal of an application where the applicant is subject to a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights under the Free Movement Directive. Such a person is outside the scope of the Free Movement Directive and therefore of the draft Withdrawal Agreement.

While the EEA Regulations giving effect in the UK to the Free Movement Directive remain in force, it is appropriate that they should be refused leave to remain under the EU Settlement Scheme. However, a person will not meet the threshold for removal under the EEA Regulations on the grounds of their non-exercise of free movement rights where that exercise (e.g. holding comprehensive sickness insurance as a student or self-sufficient person) is not required for eligibility for leave under the scheme. This reflects the more favourable provision than the draft Withdrawal Agreement which we have made under the EU Settlement Scheme, which does not require applicants to show that they meet all the requirements of current free movement rules.

Private beta phase

The current private beta phase of the EU Settlement Scheme involving 15 public sector institutions in North West England is enabling us to test the basic functionality of the technology for the online application process and, for this purpose, we have an appropriate cohort of participants. The private beta phase is working well and we currently plan to expand its scope from late October to include much greater numbers of potential participants, including some in vulnerable groups who are being supported by some local authorities and community groups. Their involvement, together with the work of the user group I mentioned above, will help us to consider the accessibility of the application process and the assistance and support which particular groups will require. We will make public the results of the initial private beta phase and any lessons learned, by the end of October. The scheme will be fully open by 30 March 2019.

Accessibility

I agree with you as to the importance of the accessibility of the EU Settlement Scheme. As we work towards the public launch of the scheme, there will be an increasing focus on how we engage with vulnerable citizens to ensure they are able to secure their status under the scheme. For example, those who through low levels of digital literacy, language barriers and social exclusion are not easily reached through conventional media channels. We are looking to scale up communications with these groups by launching a targeted campaign with relevant civil society organisations. This will be supported with practical information and relevant, simple and accessible communications material. We look forward to the input of the user group on vulnerable applicants to this work.

Evidential requirements

As you note, the Home Office may accept alternative evidence of identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or to compelling practical or compassionate reasons. We are discussing this with the user groups for the scheme, including that on vulnerable applicants. We will set out further details in due course, including in published guidance.

In respect of evidence of continuous residence, thank you for your feedback on what we said about this in the Statement of Intent on the EU Settlement Scheme published on 21 June. The current version of the non-exhaustive list of possible documentary evidence of residence is at Annex A to the published caseworker guidance for the private beta phase of the scheme. This is available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/736281/EU Settlement Scheme Caseworker guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/736281/EU_Settlement_Scheme_Caseworker_guidance.pdf)

We will continue to update this list in light of feedback and of our experience of the operation of the scheme but, consistent with your suggestion, it currently refers (at page 58 of the guidance) to “a dated letter from...a UK charity confirming the applicant's physical interaction with them...This will be treated as evidence of residence for the month in which it is dated, unless it explicitly confirms interactions over a longer period”.

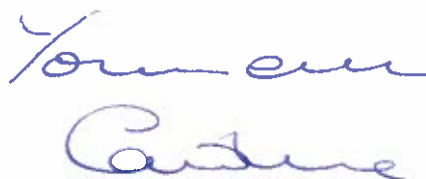
Fees for child applicants

You propose that the reduced application fee for the EU Settlement Scheme of £32.50 for those aged under 16 should also be applied to those aged 16 or 17. Our approach to fees for the scheme has been developed carefully, in line with the draft Withdrawal Agreement. This allows for an application fee for residence status in line with the agreement to reflect that for a comparable document for UK nationals, which is the UK passport, for which a reduced fee is paid by children under the age of 16. In addition, there will be no application fee under the scheme where the applicant already holds a permanent residence document under the EEA Regulations or valid indefinite leave to remain, or where the applicant is a child (under the age of 18) being looked after by a local authority.

I am content that our approach to fees for the EU Settlement Scheme is reasonable, proportionate and fair to all EU citizens, including those who have already paid for a permanent residence document. Nonetheless, I will keep the situation under review as the scheme is implemented.

Equality Impact Assessment

I agree as to the importance of equality impact assessment as part of our compliance with the public sector equality duty. We will continue to ensure that we comply with that duty and will provide further details of this in due course.



Rt Hon Caroline Nokes MP
Minister of State for Immigration