



By email:

SUGqueries@homeoffice.gov.uk
and others

18 June 2021

Dear Sirs,

The EU Settlement Scheme Deadline and Mitigating the Impact

We write to you jointly with regards to the impact of the 30 June 2021 deadline on the remaining population of EEA and other nationals eligible for status via the EU Settlement Scheme ('EUSS'). We wish to raise concerns but also enquire as to solutions to mitigate the effect of the deadline.

You will be aware that any national in the UK who is subject to immigration control, which from 1 July 2021 will include EEA nationals, is required to provide proof of their immigration status in various settings. We understand that those who are unable to provide proof will be unable to access work, rental, bank services, free NHS treatment and other vital services such as welfare support. They will also be exposed to potential removal action.

As such, those eligible for status via the EUSS but do not apply by the 30 June 2021 deadline will be exposed to these requirements until they acquire their EUSS immigration status and are able to show it to necessary officials.

You have recently updated your EU Settlement Scheme caseworker guidance to reflect a flexible policy of allowing late applicants to the scheme. It helpfully identifies the sorts of applicants you anticipate to miss the deadline. These groups in large reflect the most vulnerable in our society (victims of trafficking, those with disabilities, the older etc.).

We understand that in addition to a flexible policy to allow people to apply late, you will continue to provide some financial support to organisations assisting the sorts of groups identified in your guidance. We also understand that you will continue to fund the Resolution Centre to support people through their applications.

There are three particular areas we would like to address which will build on these mitigations and minimise further the deadline impact.



Whilst you are funding support to those who have identified they need to apply, it is not clear how those without status will be made aware that they must apply for it. Our concern is that eligible EU citizens are unlikely to be aware of the EU Settlement Scheme to apply to even when they have been denied work/rent etc. after the deadline.

The reasonable grounds policy highlights that enforcement officers will provide notices when they suspect someone is eligible to the scheme, what other safeguards will feature in other areas? Will NHS trusts and Local Authorities be required to support and refer people to the scheme? Will Landlords and Employers be subject to a similar duty?

We are also concerned about the implications on those who do apply late and continue not to be able to work etc. until they get a final decision. We note that the NHS charging regulations are amended so that people do have rights to access free health care whilst their application is pending. Are there any plans to give applicants rights in all other areas whilst they are awaiting a decision?

Finally, we note that where someone doesn't initially submit a late application they will be liable for payment of NHS treatment (and be unable to work etc.), and if they subsequently go on to apply and acquire status, they would remain liable for any chargeable treatment they received before they submitted their application.

Secondary legislation has been introduced to amend the British Nationality Act 1981, to:

address the position where a parent is granted Indefinite Leave under the EU Settlement Scheme after their child's birth, and there has been a gap in the parent's immigration status from the end of the grace period, meaning that they were not considered settled for the purposes of nationality law when the child was born. Such a grant of Indefinite Leave might occur when an application to the EU Settlement Scheme is submitted after 30th June but where there are reasonable grounds for not meeting the deadline; or when an application submitted by 30th June is only resolved after that date.

For those parents who are granted Indefinite Leave in such circumstances, this instrument amends the British Nationality Act 1981 to introduce a new provision which will enable the child to acquire British citizenship from the date on which the grant of Indefinite Leave to their parent is made, provided that the parent can demonstrate that they would have met the requirements to be settled at the ending of the grace period (for a late application)

Although the child's British citizenship is not backdated to their birth, there is nevertheless a retrospective aspect of disapplying their parent's lack of lawful status for the period between 1 July and the eventual grant of status. Are there any plans to extend this principle in other areas, such as NHS charging, to prevent people from liability which they are likely to incur?



Over the past years/months we have worked together on various issues arising from the EUSS and it's roll out. The deadline marks a key moment where for those in scope of the EUSS but have yet to apply it will become very challenging living in the UK. We look forward to continuing working together on solutions to these shared problems.

Yours sincerely,

ILPA (Immigration Law Practitioners' Association)
and
the3million