

the3million WLLR progress update response

The Windrush Lessons Learned Review ('WLLR') set out cross cutting technical and cultural recommendations that the Home Office accepted in full and responded to in its Comprehensive Improvement Plan ('CIP') last year. A lot of the themes and recommendations impact on the constituency we seek to represent: those millions of EU citizens and their family members impacted by the UK's decision to leave the EU.¹

The WLLR and the CIP came about during the development of and implementation of the Withdrawal Agreement. The EU Settlement Scheme ('EUSS'), together with its associated rules and related policies, has sought to embrace some of the principles flowing from the WLLR. Whilst there have been some successes, which we have and will continue to acknowledge, there are some key areas where the recommendations have not been implemented. We will expand on these within our response below by reflecting on the relevant 'Themes' and the recommendations within them. We will also make general observations where appropriate.

Introduction

In this response, we will draw on our experience as a campaign organisation and the intelligence we have gathered from the constituency we aim to represent. Our work is informed by EU citizens and their family members' experiences. We have an online forum with membership exceeding 45k, an online tool that receives reports of issues with acquiring or exercising rights² and we are connected with various charities and organisations across the UK supporting EU citizens in various capacities. This has allowed us to develop a rich understanding of the issues facing people impacted by the UK's decision to leave the EU.³

We have worked with the Government and various departments, including the Home Office, since our inception in 2016. As a then new civil society organisation representing a new constituency formed owing to the UK's decision to leave the EU we were welcomed and recognised by the institutions of the EU and UK during those crucial early stages of the Withdrawal Agreement negotiations.

We have had regular meetings with the Foreign Commonwealth and Development Office (and previous departments such as the Department for Exit from the EU) but also the Home Office's various teams (operational, policy, analysis etc.) during the development and implementation of the policies associated with the UK's departure. Whilst there have no doubt been challenges and differences in opinion, the UK

¹ When we refer to EU Citizens and their family members we mean all those EEA/Swiss Nationals and other nationals living in the UK relying on rights under the EU framework of freedom of movement, who now have rights under the terms agreed between the UK and various parties ([the EU Withdrawal Agreement](#), [EEA EFTA Separation Agreement](#) and [Swiss Citizens' Rights Agreement](#)).

² <https://www.the3million.org.uk/report-it>

³ For recent examples of analysis of concerns around EU citizens' rights please see our August 2021 report to the Independent Monitoring Authority ('IMA') <https://www.the3million.org.uk/ima-report>

Government have met with us and responded to many of our various correspondence. This is reflected in our publications page and various other materials on our website.⁴

However, there have been shortcomings around the interpretation and implementation of our rights which has put into motion consequences for potentially hundreds of thousands of people losing rights and, in serious scenarios, facing destitution and homelessness.

It would be incorrect to place the entire responsibility for this with the Home Office. Across Government departments there is a responsibility to implement and uphold the rights of millions of people - the responsibility to ensure EU citizens have access to welfare entitlement rests with the Department for Work and Pensions ('DWP') and Her Majesty's Revenue and Customs ('HMRC') for example. But the Home Office, as the department ultimately responsible for implementing a system to protect the rights of EU citizens, is central to championing and protecting the rights of millions of people.

Observations on the consultation process

We are grateful for the opportunity to respond to this call for evidence. The invitation to make representations was announced on 21 October 2021 with a deadline of 21 November 2021. Given the scope of the recommendations and the implementation and the short timeframe, we hope that the Independent Adviser will see the value in extending and broadening the scope of the call for evidence.

We note from the Terms of Reference the Home Office's proposal for members of staff and (former) ministers to be interviewed. We would urge the Independent Adviser to conduct similar interviews with organisations and individuals referred to in the list of "Who is this call for evidence for?" as part of the call for evidence phase.

There will be organisations who have the capacity to respond to this inquiry in writing and have the luxury to carefully reflect on their experiences, but there will be many who cannot. It would be a great loss if the Independent Adviser were not able to factor in the lived experience of people affected by the actions and policies of the Home Office as well as those who represent them on a daily basis.

We understand that a couple of events were set up for the Independent Adviser to hear from people affected, but these have not been well advertised and we fear they will not attract the broad range of people impacted by the changes.

We would also encourage the Independent Adviser to follow up with us and other organisations/individuals making representations to expand on specific experiences and concerns. Whilst we are fortunate to have a small team of people to develop this report, given the time constraints and our own resources we have not been able to go into the level of detail we feel is required for this call for evidence.

⁴ <https://www.the3million.org.uk/library>

The questions in the call for evidence

The millions of EU citizens and their family members impacted by the UK's decision to leave the EU were not the main focus of the WLLR. Indeed the majority of EU citizens had been afforded a privileged position in comparison to many migrants in the UK owing to their rights to freedom of movement and protection under EU law and associated politics. That privilege in many respects continues today, owing to the protections afforded by international agreements such as the Withdrawal Agreement, and we do not want to distract from the grave problems others experience. This being said, the themes and recommendations set out in the WLLR and CIP have shaped and adapted the approaches taken by the Government towards EU citizens after the UK's exit.

We will not be responding to all of the questions owing to their specificity towards the experience of the 'Windrush Generation', the Windrush Compensation Scheme and the historical and cultural changes within the Home Office needed to reconcile the great injustices so many have and continue to experience.

We will reflect on areas involving policy making and scrutiny (Themes 3 and 4) which we believe will help develop the Independent Adviser's insight. We will also reflect on the cultural changes pursued by the Home Office and how they have set it on a potentially counterproductive path that will impact not just our constituency but all migrants living in the UK.

General observations of EU citizens and their family members - important context

On 31 December 2020 freedom of movement came to an end and the UK entered a period of transition from freedom of movement being allowed between the UK and EU to it ending on 1 July 2021 (the 'grace period'). Leading up to this date, millions of people have applied to the EUSS for a new immigration status to continue living in the UK. The deadline, for people in the UK before 31 December 2020, was 31 June 2021.

The EUSS was designed to support millions of people to a new status and in the large it has achieved this. However despite the deadline passing it is not the end. There is much to observe from the EUSS's past, present and future.

The EUSS was built with a support service - the EU Resolution Centre (EURC) - staffed by a sizeable team who continue to date to support people with applications via a telephone helpline and online service (part of the gov.uk). There are also organisations funded via the Home Office, known as Grant Funded Organisations (GFOs)⁵ which have received funding over various periods to support people with applications. It is understood these services are due to stop by the end of the next financial year where a

⁵ <https://www.gov.uk/government/publications/eu-settlement-scheme-community-support-for-vulnerable-citizens/list-of-organisations>

review of their continuation will be conducted. These services are unprecedented in the Home Office and have been instrumental to the EUSS.

The success of these two key services is difficult to establish as no performance metrics, or other measures to appraise success and identify improvements, have ever been published. We are also concerned about the manner in which equalities information is recorded and, crucially, which information is not recorded consistently or not captured at all. We do know that since the deadline passed, problems with accessing these vital services have significantly increased with people unable to speak to or gain help from customer support at the Home Office. We increasingly receive reports of this.

At the time of writing 6,287,700 applications had been submitted and the number of outcomes was 5,908,400.⁶ Whilst these are not exact reflections on the numbers of people with status under the EUSS (the number of applications is higher than the number of applicants⁷, and outcomes include not only grants of status, but also refusals and rejections), it is clear that there is a population of millions of people with a new immigration status in the UK.

Successful applicants are awarded either pre-settled status or settled status. The latter is equivalent to Indefinite Leave to Remain ('ILR') and is granted to those who are able to demonstrate a continuous period of 5 years residence in the UK before 31 December 2020. Whereas the former grants a person 5 years leave to remain where they can show a period of less than 5 years residence prior to 31 December 2020. Those with pre-settled status must apply for settled status before their pre-settled status expires. Failure to do so will result in them having no status to remain in the UK and becoming liable to removal and facing the hostile environment.⁸

Those successful EU citizen applicants are only able to access and prove their status via an online portal using a platform called 'View and Prove'.⁹ They do not receive a physical or even digital token of their immigration status; the only option is to use the portal for each transaction where they need to prove their status. The intention of the Home Office is to roll this process to all migrants in the UK by 2024.¹⁰

We have worked extensively on the issues associated with the View and Prove framework. We invite the Independent Adviser to consider carefully our materials on the issue given that this is the future of status for all migrants living in the UK.¹¹ We have gathered extensive evidence of people's experience to date with View and Prove but also evidence from wider civil society of the concerns and fears associated with it. Ultimately we are seeing evidence suggesting that it is discriminatory and people are unable to

⁶ <https://www.gov.uk/government/collections/eu-settlement-scheme-statistics>

⁷ Many applicants will have made multiple applications - for example those who are granted pre-settled applying again for settled status, and those submitting a fresh application after a refusal.

⁸ We note that the Government chooses to refer to the measures it says are put in place to prevent illegal migration as the 'compliant environment'. The Independent Adviser will be aware these measures were previously called the 'hostile environment'. We have chosen, out of respect to the victims of these measures as well as the consequences felt by those we represent, to refer to it by its original name: the hostile environment.

⁹ <https://www.gov.uk/view-prove-immigration-status>

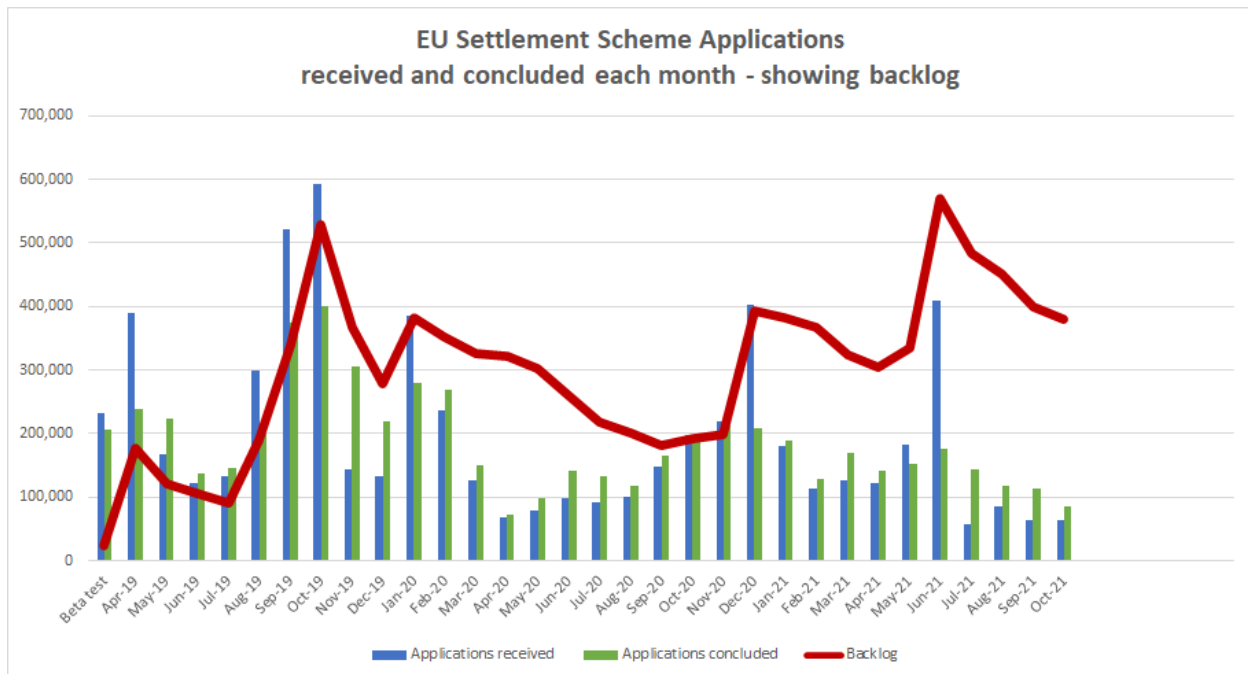
¹⁰ <https://www.gov.uk/government/publications/new-plan-for-immigration-legal-migration-and-border-control>

¹¹ <https://www.the3million.org.uk/physical-proof>

effectively navigate the hostile environment. As with the EUSS itself, we are unclear as to how performance of the View and Prove is monitored. We are particularly concerned about this in the area of equalities issues.

Prior to the deadline over 400,000 people applied to the scheme during the month of June contributing to a backlog of cases totaling, at that time, just under 600,000. The latest published statistics illustrate that, as of 31 October 2021, there are just under 400,000 cases in the backlog of pending applications. We project that, given the current processing speed, this backlog could take at least 18 months to clear.

Life in the backlog is not easy. Since 1 July 2021 we have had increased reports of people facing problems with employment, renting and accessing vital services such as homelessness support and healthcare.¹² This is, in the large, owing to confusion around the rule changes but also inconsistent and poorly implemented policy.



There is also a population of people who have missed the deadline and did not apply to the EUSS. There are no available estimates of the number of eligible people who are yet to apply¹³ and the Home Office is yet to publish the numbers of people who have applied late to the EUSS since the 1 July 2021 deadline.

Those people who missed the deadline have no clear legal basis to be in the UK and are unable to work, rent, access healthcare and other restricted services/rights until an application is submitted to the EUSS. We have had reports of vulnerable people facing barriers to services and work owing to their lack of

¹² We are finalising a special report on delays with decision making and the varied complexity associated with accessing work and services in the UK. This will be published in the coming weeks.

¹³ <https://migrationobservatory.ox.ac.uk/resources/commentaries/what-now-the-eu-settlement-scheme-after-the-deadline/>

certified application / immigration status. We are seeing frequent reports of certification of submission of applications taking several months instead of being immediate as required by the Withdrawal Agreement.

We know that the Home Office has an information campaign to encourage people who have not applied to do so. This has been cascaded to local authorities and other services who may encounter people who are eligible and have not applied. The success of this and how well it is being applied is unknown and we do not know how the performance of this exercise is being measured for success. Beyond this we are unaware of what other methodologies are being adopted to ensure that people are not excluded, and are supported towards a status they are ultimately entitled to.

A decision was made to remove the lawful residence status of those who are entitled to live in the UK who have not been able to apply for their new status by the deadline. The impact of this decision is unknown but given the number of applications that have been submitted to the scheme so far, even if it were only 1% of this population, the people affected would number tens of thousands. We estimate the figure is likely to be more.¹⁴

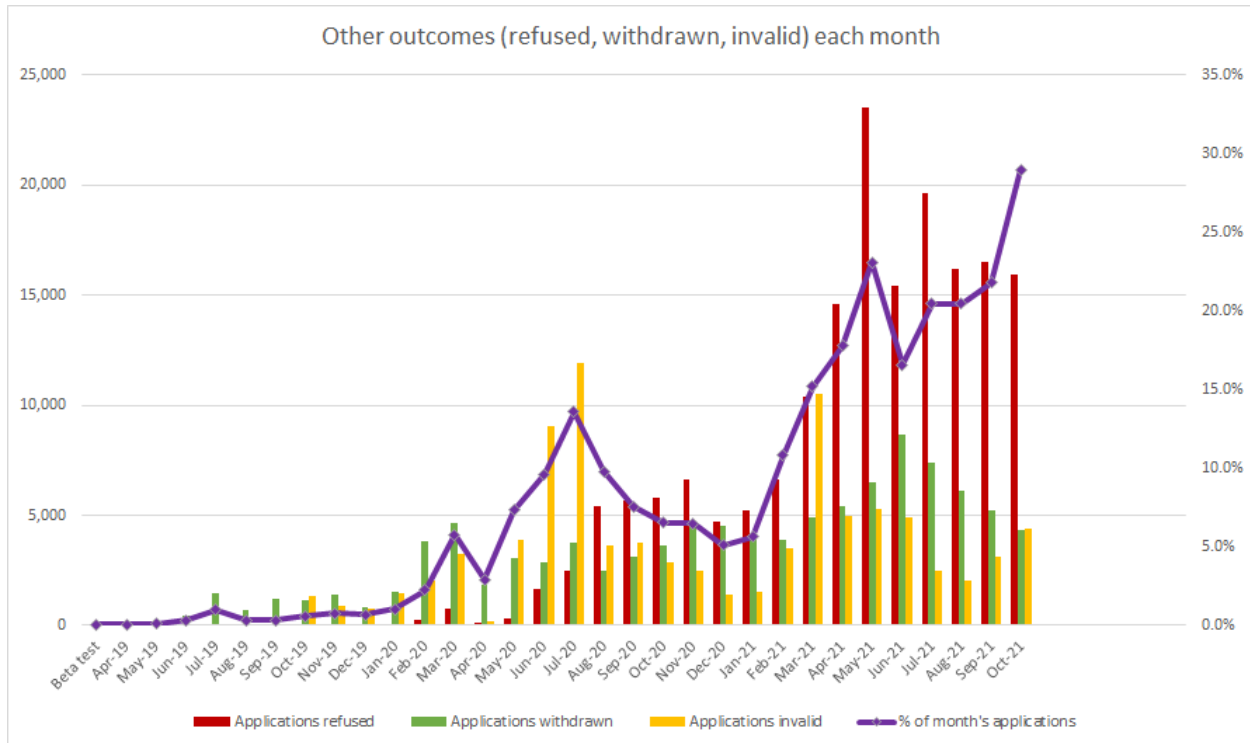
There are also family members who can continue to apply to join their EU citizen 'sponsor' in the UK. The projected number of applications is unknown but since the beginning of this year there has been a progressive increase in the number of applications by family members to enter and remain in the UK. This has seen mixed results with most notably hundreds of family members separated from their families in the UK owing to confusion and misinterpretation of rights by the Home Office.¹⁵

Finally, there are those who have had their application refused, rejected or withdrawn. The emerging trend is an increase in refusals of applicants who must go on to appeal and challenge these decisions. It remains to be seen at present the rate at which these decisions are overturned on challenge but we understand from practitioners that there are many cases where persons have struggled to negotiate the system and work with decision makers to acquire status they are ultimately entitled to. Those with refused, rejected or withdrawn applications are placed in a precarious position when it comes to enforcing rights to work, rent and so forth until a final resolution to their case is reached through administrative review, appeal or new application. While we do not yet know what proportion of reviews and appeals will succeed, EUSS quarterly statistics for the period ending 30 June 2021 show that over 20% of those refused or rejected on initial application get settled status on repeat application - 56,160 people in total. The same statistics unfortunately do not show how many more of those initially refused or rejected were granted pre-settled status on repeat application¹⁶. That being said, we are also aware of good practice by caseworkers inside the EURC to support people towards the status they are entitled to.

¹⁴ There is a program underway to suspend and terminate welfare benefits of those who have not applied to the EUSS in time and the figures are estimated to be thousands in this category <https://www.independent.co.uk/news/uk/politics/eu-citizens-uk-benefits-cut-b1898372.html>

¹⁵ [Reply from Home Office](#) to our [letter](#) about extended family members and family permits

¹⁶ <https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-june-2021>



The hostile environment measures have not been tapered or adapted to meaningfully accommodate this great change for millions of people. There has been a profound transition that has now introduced millions to a new relationship with the hostile environment and, as we have observed, with mixed experiences from loss of residence rights to destitution and homelessness.

A significant number of EU Settlement Scheme applicants (around three million) have received their UK residence rights in the form of pre-settled status. While this initially qualified as a right-to-reside for the purpose of access to Welfare, the Government introduced legislation in June 2019 to reverse this. This has meant that, especially in the light of job losses and mental health impacts during the COVID-19 lockdown, many EU citizens spiralled into destitution and homelessness. The Charity Crisis recently published research¹⁷ which shows that EU citizens living in Britain are almost twice as likely to experience the worst form of homelessness in comparison to the general adult population.

For further details on the emerging problems for EU citizens and their family members living in the UK in this context, we would ask you consider our August 2021 report to the Independent Monitoring Authority ('IMA')¹⁸.

Ultimately, those who have the misfortune to have missed the deadline, have complications with their pending applications, and are unable to access their status and rights are the more vulnerable members

¹⁷ Research by Crisis - <https://www.crisis.org.uk/media/246341/home-for-all-why-eu-citizens-are-more-likely-to-experience-homelessness-and-why-it-matters-crisis.pdf>

¹⁸ <https://www.the3million.org.uk/ima-report>

of our community. The reports we receive of people affected cut across the rich, diverse nature of the EU citizen community in the UK, but it is clear from speaking with individuals affected, colleagues supporting them and formal reports that the impact is most deeply felt by ethnic and racial minorities, and the vulnerable: children, those with lower levels of language, digital, or legal literacy, those affected by mental or physical health conditions, and others.¹⁹

It is important to note that these policies were in the large developed, then legislated for and implemented following the WLLR and CIP. The Government's performance in this area must be read against the recommendations set out in the WLLR and responded to in the CIP.

An overview of the3million's experience working with the Home Office

Much of the issues set out above were anticipated by us and many others in the academic, legal and civil society sectors. We have supplied meaningful and considered evidence and set out realistic proposals to the Government over the years and months.²⁰ Most notably there were coherent proposals to introduce a 'declaratory model' to ensure that those who missed the EUSS deadline were not inadvertently impacted by the hostile environment. These were repeatedly rejected and often misunderstood.

We have met with various officials within the Home Office. The communication has often been in one direction (we make requests and recommendations which are then rejected / deferred for later discussion, but rarely accepted). We have asked to meet with the minister responsible for the EUSS, Kevin Foster MP, on numerous occasions and have yet to be invited for a meeting.

A credit to the EUSS has been the development of user forums by the Home Office. These have taken on various forms but have recently accumulated in the 'SUG' ('Stakeholder User Group') which now meets quarterly (it used to meet monthly before the deadline). These forums involve presentations by the Home Office and Q&A and have been a place for organisations to set out concerns and issues facing people. There have been a number of occasions where issues raised have come to a resolution but it is not the place for the more systemic, fundamental issues which cannot be sufficiently addressed. It would be helpful to establish what a successful engagement forum would look like and recognising what its limitations are so we can find alternative ways to secure meaningful change.

We have had various follow up meetings with Home Office officials where, in the large, it has been a discussion about what they are doing and absorbing our feedback. We have rarely had feedback on our suggestions and on a number of occasions our proposals are forgotten.

For example, approximately two months ago we suggested that the Home Office improve their information to the public on processing times of applications to ease anxiety around applications. There

¹⁹ There are various reports in the public domain setting out where the EUSS and its associated policies has fallen short of protecting our constituency, most notably and recently: <https://www.lawcentres.org.uk/policy/news/news/better-support-for-vulnerable-people-needed-in-eu-settlement-scheme-new-report>

²⁰ Our library page contains a record of our various proposals and concerns with related replies where provided.

seemed to be an agreement that this would be helpful. To date the processing times were last updated in May 2020 and the details provided continue to be limited.²¹

There have been successes and changes in policies that have been largely last minute and initially met with resistance. A key example being that the Home Office maintained that EU citizens would not have any rights until a final decision was made on applications submitted late to the EUSS. We repeatedly campaigned on this point right up to the deadline, not least because the Withdrawal Agreement requires that citizens have rights as soon as they submit an application. The Government then changed its position over a month after the deadline.²² To date, only in a few areas has this policy change been implemented with no change in the law leading to some serious issues. For example, we understand that many charities / advice agencies, local authorities, DWP caseworkers and indeed Home Office caseworkers are still informing EU citizens with pending late applications that they have no rights to access services, work etc. until a decision is made on their application.

In the large though, whilst considered, concerns and solutions have been rejected or ignored.

We will make reference to some of the substance of these in the replies below but this is by no means exhaustive owing to the time / resource restrictions mentioned.

Question 1. The Home Office's Comprehensive Improvement Plan (September 2020), published in response to the Windrush Lessons Learned Review, sets out the ambition of building a 'fairer, more compassionate Home Office' that puts people first and sees the 'face behind the case'. Do you think the Home Office has made progress towards this ambition?

We have seen efforts made by the Home Office to develop a fairer, more compassionate organisation when it comes to EU citizens and family members. The EUSS is unprecedented in its support services towards applicants, the money provided to advice services have been welcomed, and the attempts to engage with civil society via forums have been welcomed.

However, they fall short where it really matters for the most vulnerable and at risk in our community. The policies that have been developed transitioning EU citizens and their family members from freedom of movement to the EUSS put many thousands of people at risk of hostile environment measures. These risks were and are avoidable without compromising the need to maintain effective immigration control. These are not examples of a fairer and more compassionate Home Office.

Another area where they fall short is in providing feedback to people anxious about their status. Many are in limbo for months and months on end and are either not able to speak to an EUSS caseworker, or when they do, are told that there is no information or explanation that can be given whatsoever. A 'don't

²¹ <https://www.gov.uk/government/publications/eu-settlement-scheme-application-processing-times/eu-settlement-scheme-pilot-current-expected-processing-times-for-applications>

²² <https://www.gov.uk/government/news/temporary-protection-for-more-applicants-to-the-settlement-scheme>

call us we'll call you' and 'just be patient' demonstrates a lack of empathy for the person struggling to get on with and find certainty in their life.

Question 2. Based on your experience, how well is the Home Office doing in terms of each of the below:

Question 2(ii): Demonstrating 'a more compassionate approach'? By this, the Department means putting people first and taking proper account of the complexity of citizens' lives, in order to make the right decisions.

Question 2(ii) relates to Theme 2 'A More Compassionate Approach'. As part of developing a more compassionate approach, the Home Office committed to a review of the 'compliant environment' also known as the hostile environment. It also committed to developing structures around values of 'compassion, collaboration and courage' into its workings and decision making.

We are yet to see any analysis and review of the hostile environment. We know that it has been adapted to now include EU citizens with EUSS status, pending applications and those without. The problems presented by the approach taken we have set out above, further below and in our related reports (in particular our August 2021 submission to the IMA²³). The View and Prove framework has meant that people with rights struggle to prove them and are exposed to the Hostile Environment even when encountering the Home Office border infrastructure.

Our organisation also has an active network of young people (the Young Europeans' Network). The co-managers of this group and a member were involved in the establishing and contribution to the Young People's Board referred to in the CIP. Annexed to these submissions (Annex A) are personal accounts from those involved. Concerns were raised about the framing and questions relied on when the board was established and how it has worked since.

We understand from the CIP under Theme 2 that a new Policy Superuser Network was established on 1 June 2020 which was established to 'identify policies which do not reflect the operational reality and could have unintended consequences for customers'. We query the effectiveness of this unit given the consequences being felt by the policy decision taken by the Government over the last 18 months towards EU citizens.

A notable example is the delays and problems facing extended family members who submitted applications to be with their families based in the UK.²⁴ This issue was repeatedly raised at various levels with the Home Office and policy change has still to be fully implemented, as of today there have been some changes in policy but no changes to the rules. We are in contact with hundreds impacted and are

²³ <https://www.the3million.org.uk/ima-report>

²⁴ [Reply from Home Office](#) to our [letter](#) about extended family members and family permits

aware of no new permits being granted. Those who have finally managed to reach the UK are having their applications for EUSS status refused due to the rules not being changed.

An example of policy not demonstrating a compassionate approach is that of NHS charging for those who submit a late application. The NHS will not charge people for secondary healthcare once they have a certificate of application to the EUSS (whether that application was made before or after the 30 June 2021 deadline). However, the guidance makes clear that any charges incurred between 1 July 2021 and the date of a certificate of application being issued will not be refundable.

Apart from the fact that we are seeing frequent delays of several months between submitting an application and receiving a certificate of that application, this policy does not take into account the complexity of a citizen's life. The reality on the ground is that someone who has reasonable grounds for not yet having submitted an application to the EUSS, and who becomes seriously ill will present at A&E (where their treatment is non-chargeable). They are then likely to be admitted (at which point their treatment becomes chargeable). If the treatment is immediately necessary and urgent, it will be provided without reference to their (lack of) immigration status, but will nevertheless be chargeable and not refundable. Such a person, having been made aware of their need to apply to the EUSS, will only be in the position of submitting an application once they recover sufficiently.

We have raised this with the Home Office and with DHSC, both the Home Secretary and the Minister for Immigration have been questioned about this, but the policy still stands. We have already had examples of exactly this scenario reported to us, leading to situations very much like the Sylvester Marshall case in 2018.

Question 2(iii). Demonstrating more 'inclusive and rigorous policymaking'? By this, the Department means putting in place systems and support to enable staff at all levels to make, evaluate and improve evidence-based policy that is thorough, rigorous, and promotes equality.

The drafting and implementation of rules and changes relating to EU citizens started off well with a clear framework within appendix EU of the immigration rules and associated guidance. However, since then the rules have become some of the most complex within the immigration rules that even the most seasoned of practitioners cannot navigate let alone a member of the public. Equally the guidance has become considerable and complex. The related legislation that introduced EU citizens to the hostile environment mechanism was undertaken via secondary legislation leading to little scrutiny, and errors in implementation and policy development. In particular the issues relating to the article 18(3) issue above.

There was a commitment to improve impact assessments. The Policy Equality Statement (PES) was not published for the EUSS until late last year after much pressure and legal action by JCWI (Joint Council for the Welfare of Immigrants). Consequences of the View and Prove regime highlighted by us and others did not result in a variation of the policy and we were forced to litigate on the matter. During the course of the litigation further measures were introduced to support people potentially excluded by the View and

Prove process but there are no clear measures as to whether they will alleviate the concerns raised both in the PES and elsewhere.

There doesn't appear to be clear transparent revisiting of impact assessments especially those which present evident concerns around discrimination and so forth. As illustrated through the impact of the Government's decision to put EU citizens in the compromised position they are now in.

Overall reflections are that whilst staff are sympathetic to the issues we have highlighted there have been no changes implemented to prevent EU citizens entitled to live in the UK from being impacted by the hostile environment.

The most vulnerable and excluded should be put first in policy decision making and whilst efforts have been made to recognise that there are risks - see in particular the policy on reasonable grounds to applying late - it does not go far enough especially when it comes to the concerns around the hostile environment and the policy implications there.

Question 2(iv). Demonstrating greater 'openness to scrutiny'? By this, the Department means becoming more outward facing and listening to, and acting on, views of and challenges from both staff and external stakeholders.

Openness to scrutiny requires two types of capacities: the technical ability to examine current policies and process, and the cultural ability to learn by taking in and acting on feedback. The EUSS is a digital system that captures and generates vast and rich digital data which could be relatively easily manipulated to enable such scrutiny.

However, evidence so far shows that these data are rarely used to evaluate, let alone challenge, existing policy and practice. In the section on General Observation above we already mentioned the lack of performance indicators or other metrics – qualitative or quantitative – to scrutinise the scheme's overall performance, be it the overall uptake, or the success rate for particular types of applications (including repeat applications), or appeals and reviews. The same holds true for the View and Prove service. In the absence of published performance indicators and baseline expectations, scrutiny lacks fundamental terms of reference.

Equally problematically, crucial equality characteristics are either not monitored at all, or they are not captured systematically in the EUSS. Since 2019, when the first EUSS statistics were published for the first time, the Home Office has been alerted to this but refused to accept the need for robust equality monitoring. This further impedes opportunities for internal learning and external scrutiny. We will illustrate it with two examples.

The EUSS PES stated that the EUSS design may put people with some protected characteristics, for example women, at a disadvantage. However, gender breakdowns were not included. In November 2019 we filed a Freedom of Information (FOI) request (Home Office Reference: 56477) to ask for gender

breakdowns of applications and decisions made to date. We believed these data to be available, given the EUSS system makes use of the MRZ (Machine Readable Zone) on national passports where gender is encoded. However, in December 2019 we received a response citing section 12 of the FOI Act stating providing this information would be excessively costly. The response went on to state that “any request involving the gender breakdown of EUSS applications is likely to exceed the cost limit” given “further information would need to be either requested from individuals, or found through manual searches of individual’s records”.

However, most recently we came across an FOI request where gender breakdowns were provided (Home Office Reference: 63997). After we raised this at the SUG and directly with the Home Office contacts, we were eventually advised in November 2021 to resubmit our original FOI from November 2019 so it can be reconsidered.

Similarly, in the context of the widespread concern about Roma and non-White applicants, multiple stakeholders asked the Home Office to monitor the scheme’s impact on ethnic and racial minorities as part of the application / reapplication process. These requests were never addressed. This is particularly concerning now that EUSS status holders begin to use their status, particularly in the context of right to rent where previous research and legal challenges showed discrimination. The EUSS infrastructure could be deployed to further Public Sector Equalities Duty going beyond status grants and checks. However, given the current design of the system, it does not allow scrutinising equality outcomes for the Scheme itself.

Question 3. The Windrush Lessons Learned Review said that wider cultural and systemic change was needed to ensure that nothing like the Windrush scandal ever happens again. To what extent do you think the Home Office’s culture has changed?

There are good intentions to reset the cultural narrative within the Home Office when it comes to EU citizens and their family members but this has to come with a desire to see significant systemic change that truly puts people at the centre of what they do. The culture change we have seen remains within the existing confines of the Home Office’s agenda and policy objectives.

People are listened to but there is not much by way of engagement with suggestions and issues beyond this. If there is, it is not communicated very well. Adapting the Home Office’s agenda to the needs of the people they are providing a service to is still a challenge.

In the context of our constituency, this is evidenced by the Government’s resistance to considering and introducing the declaratory model mentioned above. Even in areas where we were seeking compliance with existing commitments under the Withdrawal Agreement, the proposal for systemic change is resisted.

Unfortunately, the measures that have been put in place with respect to EU citizens and their family members has created a new framework exposing people to loss of rights, work, access to healthcare etc. As set out above we receive regular reports of people entitled to live in this country being exposed to the hostile environment.

4. Thinking about the areas in this call for evidence, is there anything else you want to say that hasn't already been covered?

There are significant changes coming with the way that applications are submitted and decisions are made within the Home Office. The EUSS saw the introduction of an online application process with digital automated elements to the decision-making process. This has been widely signalled as the future for immigration decision making and will be integrated in other areas.

Likewise the roll out of 'View and Prove' and its fully digital framework will further see the digitising of people's immigration status and transactions with decision makers. Furthermore, data acquisition and sharing within the Government will become a more integral part of decision making. Each 'View and Prove' interaction is logged by the Government, and there is no transparency around whether this data is stored, for how long, and for what purpose.

Given the legacy of the Home Office around data use and the Windrush Generation the increasing use of and sharing of intelligence interdepartmentally must be scrutinised. The increasing use of automated decision making across the Home Office and how this features is a phenomenon that requires careful scrutiny.

Annex A - experiences of the Young People's Board

Alexandra Bulat, Co-Manager, Young Europeans Network, the3million

I was delighted to see an email from a consultant in October 2020 about the Home Office wanting to engage with young people with lived experience of migration and asylum through organisations in the third sector. I got in touch with the team leading on this at the Home Office and they invited the Young Europeans Network to organise a group of young migrants with experience applying to the EU Settlement Scheme. I recruited a representative group of young people for the Home Office Young People Forum.

The young people attending had mixed views on the discussion. While some enjoyed it, more were critical of the way some questions were phrased. I recall one of the first questions being along the lines of how the EU Settlement Scheme 'helped' people and several young people pointing out it is not something that helps them, but something they had to do. While the wording of some questions could have been better and the session longer or have a follow-up (an hour and a half was not sufficient to cover all the topics), the main issue was about how the views from the group were represented.

A report was written by the Home Office team and sent back to me and the young people and many had corrections and changes to make, overall feeling that the report depicted a picture that was more positive than the discussion in the group. In addition, the young people asked me what happened with the results of that focus group, as they do not see any of their contribution translating into meaningful policy changes. I did follow up with the Home Office in October 2021 who said the report was sent to UK Visas and Immigration leads on the EU Settlement Scheme back in March 2021 and the Windrush Implementation Board, but we are yet to receive any substantive communication on whether any of this had any impact whatsoever. It is important to have such communication because otherwise we are simply creating consultation fatigue or scepticism if people feel that they spent time on something that was not impactful. On the positive side, one of our young people, Shukri, was recruited on the Young People's Board, but again it is still unclear to us how that board, or any focus group or consultation, can meaningfully affect change, because all we are seeing is more and more restrictive immigration policies, despite the academic, third sector and lived experience evidence.

Lara, Young People Forum participant:

I enjoyed having the chance to participate in the Young People's Forum. It was a good opportunity to engage with the Home Office on migration issues that affect young people. Overall, my main impression of the session was that we were expected to talk about how the EU Settlement Scheme helped us stay in

the UK. The questions often seemed to guide us in the direction of answering something positive. For example, one of the first questions was “How has the EU Settlement Scheme helped you?” to which myself and others responded critically saying that the EU Settlement Scheme was an application that we needed to make otherwise we would have lost our rights in the UK. We were not asked what we thought of the scheme in itself or the negative thoughts we had on it. I was still able to talk about these views but only as an addition to other answers. We were also asked for our views on how the EU Settlement Scheme could have been better advertised. We did give suggestions such as reaching out to community groups like churches but I never saw the result of that besides outreach actions by organisations in the third sector.

Additionally, many of us wanted to talk about the general hostile environment policies and our views on them but there was no scope to talk about them. It was very much focussed on talking about the practical steps of the EU Settlement Scheme like its advertisement rather than the policy itself.