

By email:

Minister Kevin Foster MP

Copied: Home Office SUG team

6th January 2022

Dear Kevin Foster MP,

Problems for non-EU family member holders of EUSS status returning to UK with expired BRP/BRC

We have received reports from several non-EU citizens with status under the EU Settlement Scheme, who have travelled abroad and been prevented from returning to their home in the UK due to expired or lost biometric residence cards / permits.

I enclose abbreviated versions of some of these accounts:

1. Expired EEA BRC

"I travel with my old Residency Card, which expired in January 2021, but since it's linked to my settled status, I always present it during border control and airport visa check. Upon arrival at the airport for the return leg of our flight the visa check was being done by the airport staff and they had no idea what settled status is or how to prove it, so they referred my situation to the [carrier] UK immigration department who informed the airport that I cannot board the flight without valid residency permit. Any attempts to explain were in vain. [Carrier] UK immigration department couldn't be contacted by me, as it's not a passenger communication channel. Airport denied boarding. The British embassy in the UK said it has nothing to do with them and the Home Office first appeared helpful but then redirected me to a phone number that wasn't available. Airport staff advised us not to come back without physical evidence of my status, which I am obviously not able to provide. As such we are stuck in limbo in a country where I have no right to reside or work, away from my home, workplace and everyday life. I am unable to return home with my family. Both me and my wife work and can't attend our commitments. Our son goes to nursery and is unable to attend. We don't have a house in [...] so we need to stay on the couch with relatives. It is very frustrating as we know our rights and we know we are residents in the UK and we were treated this way due to the Home Office decision on lack of physical status cards that is really hard to understand and to the fact that international airports seem to be really badly informed. We lost a lot of money on the flights, travel to/from the airport (2hrs drive from the place we stay), pre and post departure tests and now new flights are astronomically expensive."

"I must admit we (my wife and I) are pretty confused right now. So far everyone has been telling us that all we need to travel is the settled status and a valid passport. It seems now we have to travel to [city] to get a biometric visa / travel permit for me. This is especially

confusing, as we already travelled this year and nothing of sorts was mentioned. To add to the confusion, when we were travelling in August, we were advised by the UK border control officer, that it doesn't matter that my residence card is out of date, as settled status replaces the need for this card. I was advised to continue to travel with the expired card, as it is attached to my settled status. As such, I continued doing so, only to be told by a Home Office officer yesterday that I need a new biometric card, as settled status for EU citizens works differently than for their non-EU spouses/family members. Very confusing.”

2. Lost BRC

“In August my husband lost his residency card and reported it lost to the Home Office. In September we travelled from the UK to [EU country] and back to the UK without it with no problems, even though he had no physical residency card with him. He carried with him the scan of his residency card, the email proof of reporting it lost, his [non-EU] passport and his pre settled status logging in online.

In October we travelled to [EU country] together. On returning, we went to the airport, to the [carrier] check in desk and the check in lady didn't allow us to fly back to the UK saying that he didn't have the physical residency card therefore he was not allowed to fly.

We showed her settled status, residency card scan and Home Office report of lost residency card and explained the situation but still she refused to let us on the plane.

We called the UK immigration number and they told us that he needed to apply for a BRP replacement visa. [This turned out to be incorrect advice since he had EUSS status, so they lost the application fee plus £400 for expedited processing].

We called again the UK numbers for immigration and visas and the Home Office number for the EU Settlement Scheme and no one told us anything to help us understand what to do.

We were told to do something at a very high price and afterward through Facebook forums we found out about another travel document used in these cases called “EUSS travel permit”.

We have been stuck in [EU country] since the beginning of November with zero help from any authorities, losing time, money and our work and study commitments back in the UK.

We are frustrated, stressed and worried about the situation which is quite confusing. We live in the UK, my husband has a 5 years visa in the UK, and was rejected by the airline, and with no shame the UK Government rejected his BRP replacement visa application saying there is no refund and without giving any help on how to solve the situation.” [Two months later they are still stuck, waiting for the EUSS Travel Permit].

3. Expired EEA BRC

“I wonder if someone can help my family. I am an EU citizen with settled status. My husband is a [non-EU] citizen with settled status. Before Brexit he had a Resident Card that we used with his passport to travel. His resident card expired in February 2021 and we were told that they don't exist anymore (it still says the same thing on the Government website). We travelled to [EU country] for a one week holiday to visit my family and he was refused boarding from [carrier] on the account that he can't re-enter the UK only with his passport. We have been in contact with Immigration, the Embassy but no-one can give us an answer on what he needs to re-enter. I was also told that if I leave him here, he would be illegally in [EU

country] and he could potentially be arrested. Our two young children are also with us. Does anyone have any information that could help us please? We are desperate!!

When he checks his "status" online, the same way that we do, it says there that he has the right to travel in and out of the country and does not mention any card to have extra. The reason I am saying this is only because I think we were misled by the Government information and it is unfair the situation we find ourselves in."

As you can see, aside from the serious consequences faced by these citizens, all these accounts have in common a lack of consistent helpful information from various authorities including carriers, British embassy, and the Home Office to address the situation they find themselves in.

Even when individuals are finally informed that they need to apply for an "EUSS Travel Permit" to return to the UK, these are subject to delays in excess of one or two months. We are keen to identify ways that these issues do not continue and to prevent the considerable cost and impact people are facing.

We note that specific communications either lack information or are potentially misleading which could be associated with the problems people are experiencing.

1. The decision letter received by non-EU citizens when they are granted status under the EU Settlement Scheme

These do not mention that non-EU citizens require a valid BRC to travel. For those who applied for EUSS status with an EEA biometric residence card, their EUSS status is linked to that EEA BRC and the citizen is not informed about the need to replace this with an EUSS BRC on expiry. The decision letter states only: "**Entering the UK** There will be no immediate changes when you come back into the UK after travelling abroad. You must continue to present your passport and biometric residence card at the UK border. You will be able to use a valid passport and a family permit or residence card issued under the EU Settlement Scheme to enter the UK."

2. The Gov.UK website on EEA Residence cards

This website (<https://www.gov.uk/uk-residence-card>) only details that it is no longer possible to apply for these cards. It states that it can still be used until expiry date to re-enter the country.

- It explicitly states: "You do not need to apply for a new one".
- It explicitly states: "After your residence card expires, you can use the online service if you need to view your status or prove it to someone else".
- It makes no mention of EUSS BRCs.
- It does not provide a link to the webpage where individuals can apply for an EUSS BRC. That webpage (<https://visas-immigration.service.gov.uk/product/biometric-residence-permit-replacement-service>) is not discoverable for people.

3. Mass email sent to EUSS status holders in Autumn 2021 to inform them of their rights

This email unfortunately was not segmented, rather everyone received the same email regardless of their nationality or rights. The section entitled "**Travelling to the UK or travelling from the UK**" makes no mention of BRCs. Indeed, it says: "*When travelling to the UK or travelling from the UK we recommend you travel using the document you used to apply to EUSS.*" It also says "*You don't need to do anything if you will be travelling to or from the UK and you have EUSS settled or pre-settled status, or have a pending application to the EUSS, as*

long as you intend to travel using the document you used to apply to the EUSS.”

On this point alone, it is clear why our first and third examples above felt they could travel out of the UK and return using their expired BRCs.

4. View and Prove website

When non-EU citizens log in to the View & Prove website (<https://www.gov.uk/view-prove-immigration-status>), the section on their rights entitled “**What you can do in the UK**” states their settled status means they can “*travel in and out of the country without having to prove your status, as your information will be checked automatically.*” This is incorrect.

5. Information provided to carriers

The Home Office document “[Charging Procedures: A Guide for Carriers](#)” (updated November 2021) and the referenced “[UK visa requirements: list for carriers](#)” (updated September 2021) make no mention of the EU Settlement Scheme, its digital nature, or of the various documents that can be linked EUSS status. We are receiving many reports of people struggling to board their return flight to the UK with a **valid** EEA Residence Card linked to their EUSS status. One individual we spoke to had almost been denied boarding on three separate occasions, because the carrier insisted that the UK issued EEA Residence card was no longer valid after Brexit. Given the guidance does not make clear reference to the documents available to passengers, it should be amended to prevent such issues from happening.

We therefore would like to ask the following questions:

- Q1. Will you urgently undertake to review and update all information sources including but not limited to points 2 and 4 above, to:
- a. Make clear that non-EU citizens with EUSS status require a valid (in-date) biometric card to demonstrate to carriers their entitlement to return to the UK
 - b. Signpost non-EU citizens with expired EEA residence cards to the correct information on applying for an EUSS BRC
- Q2. Will you urgently review and update the information provided to carriers, to:
- a. Include detailed information on the EU Settlement Scheme, in particular to:
 - b. Explain how EU citizens can prove their status digitally, in order to allow them to travel with a national identity card as guaranteed by the Withdrawal Agreement; and
 - c. Explain how non-EU citizens can still travel with a UK issued EEA Residence Card despite the UK leaving the EU
- Q3. Will you write to all non-EU citizens with EUSS status, and clarify their rights and obligations when travelling back to the UK, together with correct information on the need to, and how to, apply for an EUSS BRC?
- Q4. Can you provide statistics on the length of time people are waiting for EUSS Travel Permits from time of application to time of their passports returned to them with granted travel permits?

Q5. Will you provide an emergency exemption to allow all citizens with EUSS status who are stuck abroad without valid BRCs as a result of the above lack of / misleading information to travel back to the UK with immediate effect?

Q6. Will you compensate affected individuals for all costs and consequences arising from their inability to return to their home in the UK?

Kind regards,

Monique Hawkins

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