

Mr Kevin Foster MP

By email: Kevin.foster.mp@parliament.uk
MinisterforImmigration@homeoffice.gov.uk
CC: SUGqueries@homeoffice.gov.uk

14 June 2021

Dear Kevin Foster MP,

Applications to the EU Settlement Scheme by children

We are writing to express our concerns about children obtaining status under the EU Settlement Scheme. Our worries fall into three categories:

- Children not applying
- Children waiting for decisions
- Refusals on children's applications

Children not applying

We are seeing many reports of parents who have not realised that their children are not automatically covered by their parents' status under the EU Settlement Scheme. We appreciate that letters were recently sent out by DWP to all known EU citizens, and that these letters mention 'you and your family members', but we feel explicit communication is urgently needed to make clear that children, even new-born babies (within three months of their birth), must have an immigration status after 1 July.

Even for those parents who do know that they must make applications for their children, many are struggling to do so because they have been unable to get identity documents from their embassies or consulates following COVID closures and restrictions. Although there is an option of a paper application, this is not widely known or accessible.

We also note that the most recent [Home Office looked-after children and care leavers survey](#) finds that as of 23 April 2021, of the 3,660 looked after children and care leavers identified by the survey as eligible to apply, applications have not been made for 1,220 of these children.

The [Overseas NHS visitors charging regulation guidance](#) states that children who are looked after by a local authority are exempt from NHS charging. We furthermore understand that once a late application to the EU Settlement Scheme is submitted, treatment is no longer chargeable from the date of application - however any charges incurred between 1 July 2021 and the date of application remain chargeable.

Q1. What further communications are you planning specifically around children needing to apply to the EU Settlement Scheme?

Q2. We welcome that some changes have been introduced to allow paper application forms to be sent and returned by email, however this change was made very recently and it is not sufficiently known or understood. Could this - as we are now in the final fortnight before the deadline - be clearly and explicitly publicised on the webpage which informs people of the valid documents they need to apply? (<https://www.gov.uk/settled-status-eu-citizens-families/what-youll-need-to-apply>)

Q3. We note that children who are looked after by a local authority are exempt from NHS charging. However, after 1 July what will the rights to NHS hospital treatment be for children who, through no fault of their own, have not had an application made for them by a parent or carer?

Children waiting for decisions

The EU Settlement Scheme quarterly statistics show that children are overrepresented in the number of applications still to be concluded, relative to their overall number of applications.

- At the end of March 2021, there were 84,870 unconcluded applications from children under the age of 18.
- At the end of December 2020, children's applications were 14.6% of total applications, yet formed 22.1% of unconcluded applications.
- At the end of March 2021, children's applications were 14.9% of total applications, yet their share of unconcluded applications had grown to 26.2%.

This increase is likely to be related to the fact that after January 2021, proof of residence for children is required. We have heard many reports from parents who are finding it difficult to evidence their children's residence, especially if they have not yet attended school or needed doctor's appointments.

Q4. Are the Home Office and EU Settlement Resolution Centre aware that children are facing a disproportionately long delay for their applications to be concluded, and what steps are being taken to resolve this situation?

Q5. Most of the evidence listed in <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence> is not applicable to young children, and a case has been reported¹ where a boarding card was not deemed sufficient evidence of residence despite being listed as acceptable evidence. Therefore, can

¹ <https://www.independent.co.uk/news/uk/home-news/eu-settled-status-home-office-b1854470.html>

the list of acceptable evidence be changed such that for children, photos, videos, letters and references from family and friends **are** accepted as evidence?

Refusals on children's applications

Over the whole duration of the EU Settlement Scheme, 7,920 children's applications have been refused. 4,570 of these refusals are from applications concluded since 1st January 2021.

We understand that at least some children's applications are being refused through:

- not being able to provide evidence that the child was in the UK before 31 December 2020,
- thereby being treated as a visitor
- and refused on the basis that citizens in the UK on a visitor visa cannot apply directly to the EU Settlement Scheme
- and instead have to be granted a Family Permit under the EU Settlement Scheme to be allowed to enter the UK and then apply for pre-settled or settled status under the EU Settlement Scheme.

The intertwining of Appendix EU of the Immigration rules and the secondary legislation covering the grace period² is so complex that even among legal experts there is debate over whether or not a child coming to the UK after 1 January 2021, to join a parent with status under the EU Settlement Scheme, is entitled to apply to the EU Settlement Scheme without requiring a Family Permit first. It is worth noting that there can be a considerable delay (lasting months) to obtaining a Family Permit.

The Withdrawal Agreement arguably does not allow for such administrative barriers to be put in place of children joining their parent(s).

Q6. Given that the Withdrawal Agreement guarantees the right of children to join their parent(s), and that all eligible children must therefore eventually be granted status under the EU Settlement Scheme, why can applications not be made from within the UK without requiring to separately apply for a Family Permit first?

Q7. In order to help clear the uncompleted applications from children (almost 85,000 as at the end of March), would the Home Secretary consider changing the legislation such that applications to the EU Settlement Scheme can be made from within the UK without requiring a EU Settlement Scheme Family Permit?

Kind regards,

Monique Hawkins

Policy and Research Officer, **the3million**

² [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020](#)