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DECS Reference: MIN/0285708/22

8 June 2022

Dear Luke Piper,

Thank you for your letter of 15 April to the Safeguarding User Group Team concerning the implementation of temporary protection of rights for late applicants to the EU Settlement Scheme (EUSS). I am sorry for the delay in responding to your letter.

The Government has continued to encourage those who are eligible for the EUSS, but have not yet applied, to do so as soon as possible. We have maintained support for those who require it, including by providing a further £2.5 million in funding through to 30 September 2022 to enable the network of grant-funded organisations across the UK to continue to help vulnerable people apply to the EUSS.

We have made clear a person's rights will be temporarily protected as soon as they have made a valid application to the EUSS and will remain so until they receive a decision on their application or the outcome of any administrative review or appeal. Their certificate of application provides evidence a valid application has been made to the scheme. This has been reflected in the guidance for applicants available on GOV.UK at:

[Apply to the EU Settlement Scheme \(settled and pre-settled status\): Overview - GOV.UK](https://www.gov.uk/guidance/apply-to-the-eu-settlement-scheme-settled-and-pre-settled-status)
(www.gov.uk)

It is rational and proportionate to require someone to provide basic evidence of identity and nationality before issuing a certificate of application which enables access to extensive rights in the UK pending the outcome of the application. It is also justified in the public interest, including by protecting the integrity of the EUSS and the Citizens' Rights Agreements and thereby maintaining public confidence in the operation of this aspect of the immigration system.

Our caseworkers will support applicants to meet the requirements for the EUSS and will give them a reasonable opportunity to do so. These arrangements are set out in the published caseworker guidance:

[EU Settlement Scheme caseworker guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/eu-settlement-scheme-caseworker-guidance)

The certificate of application can be viewed online. It makes clear what the holder may be entitled to includes the right to work and (in England) rent a place to live once the certificate of application has been verified with the Home Office; as well as the right to study, to use the NHS in a similar way to ordinarily resident UK nationals, and to access public funds such as benefits if they are eligible.

We are aware there have been some delays in issuing certificates of application as a result of high application volumes, the impact of the COVID-19 pandemic and, in some circumstances, challenges with verifying identity. UK Visas and Immigration are working hard to address this, where possible; and in the meantime there is scope for people to call the Settlement Resolution Centre on 0300 1237379 to request their case be expedited where lack of a certificate of application is problematic - for example, where they are vulnerable.

A person who has made a valid late application to the EUSS benefits from temporary protection of their rights in the UK by virtue of the direct effect of Article 18(3) of the Withdrawal Agreement, and equivalent provision in the other Citizens' Rights Agreements. The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 maintained the rights of those who made a valid application to the EUSS by the end of the grace period on 30 June 2021, pending the outcome of that application and any appeal, where they were lawfully resident in the UK, or had a right of permanent residence in the UK under the Immigration (European Economic Area) Regulations 2016 at the end of the transition period on 31 December 2020. Other in-time applicants and late applicants do not benefit from the 2020 Regulations, and we have no plans to amend them. Instead, we are treating such applicants as having temporary protection once they make a valid application under the EUSS by virtue of the direct effect of the Agreements.

Your letter has been shared with those departments to which you referred: the Department for Work and Pensions, the Department for Levelling Up, Housing and Communities (DLUHC), the Department for Health and Social Care and the Department for Education. They have taken a consistent approach to the implementation of temporary protection of rights for late applicants in practice, amended relevant guidance and, in order to ensure swift implementation, relied on the direct effect of the Agreements. All departments require evidence that a valid application has been made to the EUSS by way of a certificate of application. They keep their published guidance under review to ensure it provides sufficient clarity and are considering whether any changes are required in light of your correspondence. For example, DLUHC will be clarifying their Homelessness and Social Housing Allocations Code of Guidance to reflect the requirement for a certificate of application when considering eligibility.

By exception, some regulations have been amended. The Home Office has amended the regulations concerning the right to work and rent with effect from 6 April 2022 to allow those who have made a valid application to the EUSS from 1 July 2021 to rely on their certificate of application as proof of their right to work or rent when verified by the Home Office checking services.¹ This was happening in practice, relying on the direct effect of

¹ [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations](#)

the Agreements, but the provision is now in regulations. In August 2021, the Department for Education also amended relevant legislation and associated guidance to reflect access to student finance and home fee status for those with temporary protection.² The Government has no plans for further regulations at this stage, but departments will keep this under review.

Yours sincerely,

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[2022 \(legislation.gov.uk\)](#)

² [The Education \(Student Fees, Awards and Support\) \(Amendment\) \(No. 2\) Regulations 2021 \(legislation.gov.uk\)](#)