

By email:

EEA+ ambassadors to the UK

CC:

The EU Delegation to the UK

20th March 2024

Dear Ambassadors,

This letter is coordinated by Here for Good and signed by advice and support organisations across the UK working with EU citizens and their families affected by Brexit. The letter serves as an urgent appeal to EU Member States to take action in response to the need of many of your citizens living in the UK who struggle to secure and safeguard their rights in the UK, and the charity advice sector working tirelessly to support them.

This sector provides essential legal support required by many EU citizens but, unfortunately, the charity advice sector supporting EU citizens is strained in capacity, necessary accreditation levels, and funding. The support provided by the UK government addresses only a fraction of the need we see on the ground day to day. We have been compelled to turn to EU Member States with a plea for the investment necessary to meet the increasing needs and complexities of your citizens here in the UK. This support could make a significant difference in the lives of many, safeguarding their rights, and facilitating their continued lawful residency in the UK.

**The scale of need for those under the EU Settlement Scheme**

As we move into the next phase of the EU Settlement Scheme (EUSS), the process for EU citizens and their family members to secure their status in the UK is becoming increasingly challenging. The UK Home Office is intensifying its scrutiny in the process, and an increasing number of eligible EU citizens are finding themselves unable to secure their immigration status under the Scheme. This includes those who are still finding out about the requirement to apply, and attempting to submit a late application (the deadline to apply was in 2021), and those who struggle to provide evidence of their residency which the Home Office deems acceptable and legitimate. In addition, those whose applications have been rejected no longer have recourse to appeal or administrative review which will render many thousands with no legal status. This cohort will require legal advice and support from accredited providers who accept complex cases to resubmit a strong application, or challenge, through representation, the Home Office's initial decision.

Alongside the continuous influx of over 50,000 EU Settlement Scheme applications per month, the sector is also addressing the needs of non-EU family members with over

650,000 non-EU national family members who have applied through the EU Settlement Scheme. There are also many still caught in a backlog waiting for a decision from the Home Office on their applications, including non EU national family members, and family members joining an EU citizen living in the UK. This cohort would benefit from legal advice and support in order to expedite their applications. Despite being eligible to apply for a status, they exist in a precarious situation and are unable to exert their full rights whilst in the UK.

Furthermore, those currently holding pre-settled status are now at a pivotal juncture. This affects approximately 2 million of your citizens. They must either secure settled status through the EU Settlement Scheme, or through alternative UK immigration routes, often on family or human rights grounds, to maintain lawful residency. As a result, the demand for legal advice to navigate the transition to settled status is immense.

This is further heightened by personal circumstances, with an estimated 10% of individuals holding pre-settled status facing additional vulnerabilities that make their cases even more intricate. The signatories of this letter can attest to this through their work with particularly vulnerable Europeans and their family members such as rough sleepers, children and adults in care, people with mental health issues or disabilities, survivors of domestic violence, people from Roma communities, and those with limited levels of English for example.

This translates to nearly 200,000 people in need of specialised legal representation. As readily acknowledged by consulate colleagues at a meeting convened by the EU Delegation to the UK in Europe House on the 13th March 2024, the complexity of these applications now necessitates advice and representation assistance from lawyers with advanced accreditation in order to submit a successful application under the Scheme, and the capacity of the organisations they work for to meet demand.

We want to emphasise that the types of applicants who approach our services have genuine claims to secure their residency rights under the Scheme. Without this critical support, many of your citizens trying to exercise their rights under the Withdrawal Agreement are at risk of either failing to apply or facing a heightened likelihood of refusal by the Home Office, leaving them exposed to immigration enforcement, detention and removal from the UK back to the EU.

To avert such an outcome, it is imperative that they have access to free and accessible legal advice, and a sufficiently funded provision to meet the demand expected in 2024 and beyond, as those with pre-settled status become eligible to apply for settled status, including the most vulnerable, joining family members make applications, and those waiting for a decision on their applications, seek support.

Currently free, specialised advice falls under three available options - Home Office Grant Funded Organisations, non-Grant Funded advice charities, and Legal Aid law firms. All report that they are struggling to meet current demand.

### **Grant Funded Organisations**

While the current Home Office Grant Funding Organisation (GFO) scheme provides some help, the scope of the funding is narrow and it falls short of providing a comprehensive solution to the needs of vulnerable EU citizens in the next phase of the EU Settlement Scheme.

In total, the Home Office has made approximately £32 million available to GFOs for the six-year period from April 2019 to March 2025, though it is unclear how much of that money has actually been paid out. From information available in the public domain, the 3million recently calculated how much has been **available per month** between April 2019 and March 2025. See figure 1 in the Appendix.

Figure 2 in the Appendix shows the period since the EUSS deadline, i.e. from 1 July 2021, when the need to protect vulnerable citizens at risk of Windrush-type impacts kicked in. The cuts in funding month on month is stark. Particularly when compared to the number of EUSS applications that the Home Office **received** in that period, which has stayed remarkably constant (see figure 3).

By looking just at successful grants of status after the deadline, it is clear that the monthly **grants of status** have similarly stayed relatively constant (figure 4), with no discernible drop-off during 2023 (figure 5).

It is unclear on what basis the Home Office's decision has been justified to reduce the monthly funding so drastically, especially as their own statistics show a constant and maintained need, but the consequences are serious both for your citizens and for those organisations providing advice and support with the help of this funding.

### **Non-Grant Funded Charities**

Beyond the scope of the GFO organisations, the avenues for securing free legal advice for EU citizens are further limited. Charities operating with the support of charitable donors provide some hope, yet their numbers are few and their resources are increasingly stretched. Funding opportunities to support immigration work are limited. For example, Here for Good and POMOC recently had to make the difficult decision to pause incoming referrals to their services in order to deal with the surge in increasingly complex cases. New Europeans UK has had to operate with a waiting list for enquiries because of capacity, and Settled has limited and redesigned its helpline because of demand. These organisations illustrate that small and larger organisations, those operating at grassroots and national level, are struggling to meet demand from EU citizens across the UK.

### **Legal Aid**

The UK legal aid system is designed to provide assistance to individuals who cannot afford legal representation, ensuring everyone has access to justice. However, the rules around legal aid are restrictive.

Most immigration matters, such as the EU Settlement Scheme, family applications and human rights applications, do not automatically qualify for legal aid. Very few EUSS cases are eligible for legal aid, and even in instances where it is available, securing a legal aid lawyer with the capacity to take on new cases is difficult. There is a critical and growing gap within the legal aid system, which struggles not only with capacity but also with the allocation of necessary resources and a lack of commitment to address the needs of EU citizens, and the capacity shortfalls experienced by both Grant Funded Organisations and non-Grant Funded charities.

## **Consequences of failing the Immigration System**

In the year ending September 2023, 2,600 EU citizens were taken into immigration detention. The charity [Bail for Immigration Detainees](#) reports that one-third of their current bail casework involves EU citizens who meet the requirements of the EU Settlement Scheme, highlighting the significant impact of immigration enforcement on EU citizens who have been unable to access legal advice and support to apply for a status. The precise number of non-EU family members of EU citizens among these detainees remains unclear. The rising numbers entering detention are particularly concerning as this, in turn, points to more individuals falling out of the EU Settlement Scheme.

There is a stark absence of accessible and practical free legal assistance for individuals in immigration detention, so that once someone is detained, their removal from the UK becomes a likely outcome. This situation underscores the urgent need for accessible legal support. These citizens, upon their return to EU countries may encounter significant challenges, necessitating governmental support, assistance and resources.

## **Recommendations**

A key advice organisation in the sector, Settled, reached out to you all late last year highlighting some of the pressing challenges outlined in this letter and appealing for support from EU Member States. The situation is now dire and cannot be ignored; the need for enhanced support and funding for legal advice services cannot be overstated.

We urgently call upon EU Member States to acknowledge the precarious situation confronting your citizens in the UK and to commit to providing the vital funding needed to bolster the capacity of the free advice sector. Such support will not only protect the rights of EU citizens, and secure their lawful residency, but also avert the severe consequences of their potential exclusion from the immigration system, and the risk of removal from the UK.

Specifically, we would encourage Member States to urgently work in coalition, with support from the EU Delegation, to pivot available resources to the legal services sector in the UK in an accessible and straightforward way to target EU citizens under the EU Settlement Scheme.

Our understanding is that most consulates do not have in-house expertise of the EUSS but instead signpost to third-party advice services. This suits many of your citizens who may prefer to seek help from community based support agencies, as acknowledged by consulate colleagues at the meeting in Europe House on 13th March 2024. However, these support services are now at serious risk of disappearing without the appropriate funding in place. It is imperative that these existing referral pathways between consulates and advice services are kept sustainable and healthy. There are good examples of joint funding models that can be explored, and organisations from the sector that are willing to work with you to achieve these aims going forward.

Representing more than just financial aid for legal services; this concerted approach would support the continued, existing expertise of qualified and specialised personnel in the sector for years to come, and bolster the crucial lifeline it offers to hundreds of thousands of EU citizens and their families who should be protected under the Withdrawal Agreement.

Furthermore, we ask EU Member States to engage with the EU Delegation to the UK in their advocacy efforts with the Home Office, FCDO and others. With various elections taking place this year, we also urge Member States to initiate dialogue with political parties and candidates, to highlight these critical funding shortfalls and capacity issues, as the sector is doing. It is essential that politicians are informed and prepared to tackle these challenges head-on so that the necessary frameworks and commitments can be developed to address the needs of the free immigration advice sector and the charities that underpin it in the UK.

Your assistance is crucial in this endeavour. Together, we can ensure that the rights and well-being of your citizens are preserved and they receive the support they deserve in navigating the complexities of the UK's immigration system.

Kind regards,

1. Bella Kosmala, Here for Good
2. Lydia Martin, New Europeans UK
3. Kate Smart, Settled
4. Kezia Tobin, the3million
5. Natalia Byer, POMOC
6. Natalie Smith, Cardinal Hume Centre
7. Indre Lechtimiakyte, Samphire
8. Kush Chottera, Europa
9. Matthew Evans, The AIRE Centre
10. Lumturi Podrimaj, Advice NI
11. Cecilia Petre, The Romanian and Eastern European Hub
12. Elena Remigi, In Limbo Project
13. Cosima Doerfel Hill, In Limbo Project
14. Armine Nikoghosyan, GYROS
15. Iveta Bangova, European Drom CIC
16. Katarina Dome, European Drom CIC
17. Barbara Drozdowicz, East European Resource Centre
18. Mags Brady, PBIC
19. Michal Burdyl, PBIC
20. Mihai Calin Bica, Roma Support Group
21. Luke Piper, the Work Rights Centre
22. Nicole Masri, Rights of Women
23. Tahmina Nizam, Fair Way Scotland

## Appendix

Source: The3million's letter to the Home Office about the declining funding of Grant Funded Organisations (GFOs) providing complex EUSS advice and support services, and challenging the Home Office claim that there is 50% spare capacity among these organisations. Read the letter here: <https://the3million.org.uk/publication/2024030501>

Figure 1:

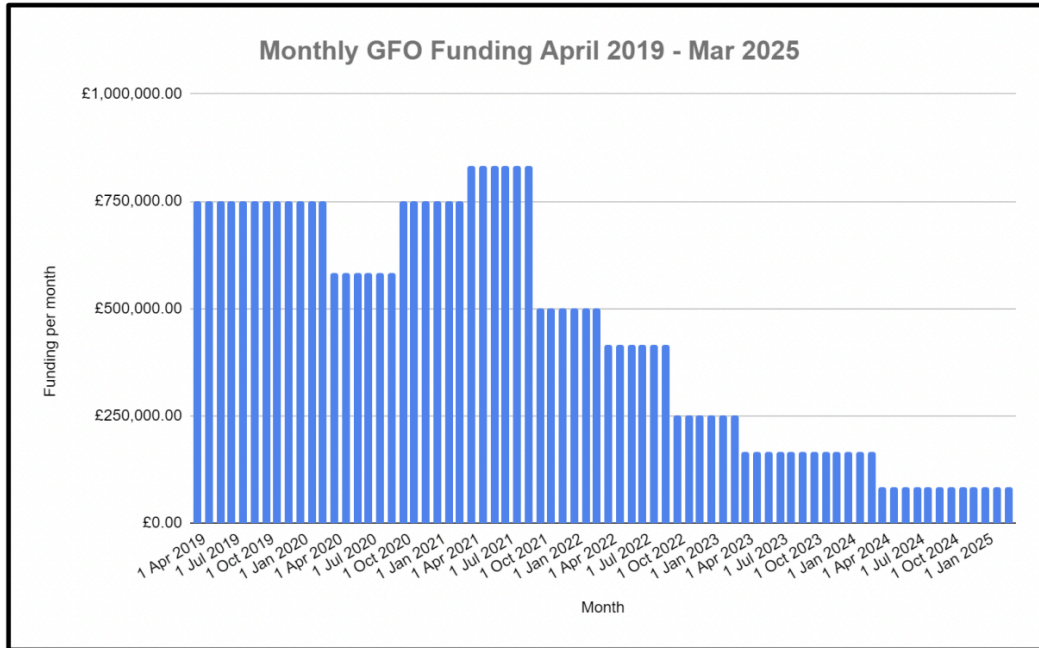


Figure 2:

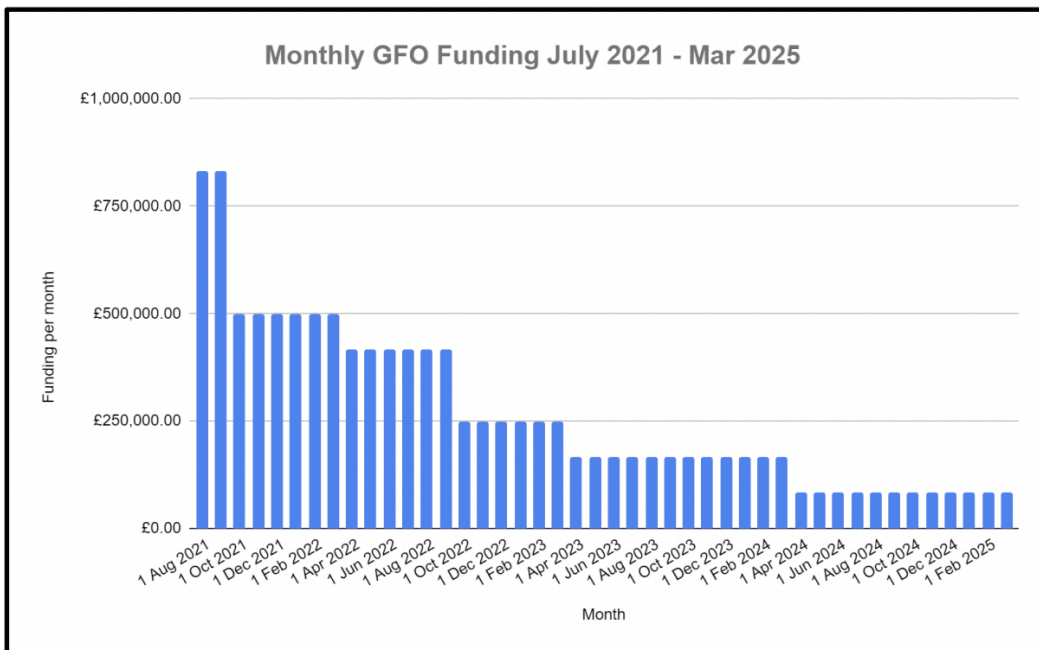


Figure 3:

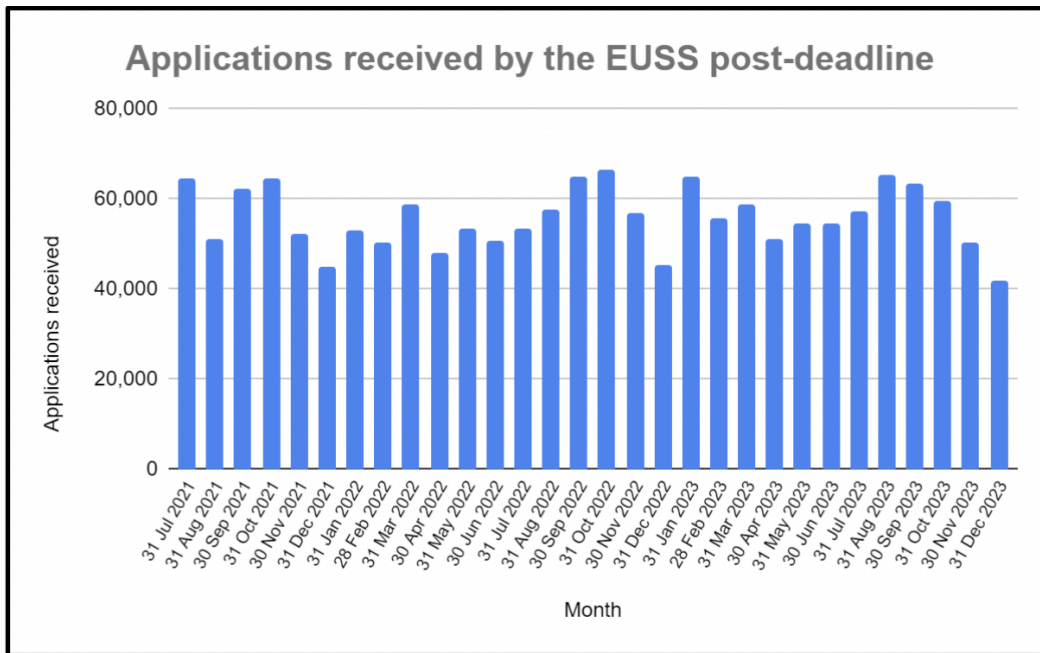


Figure 4:

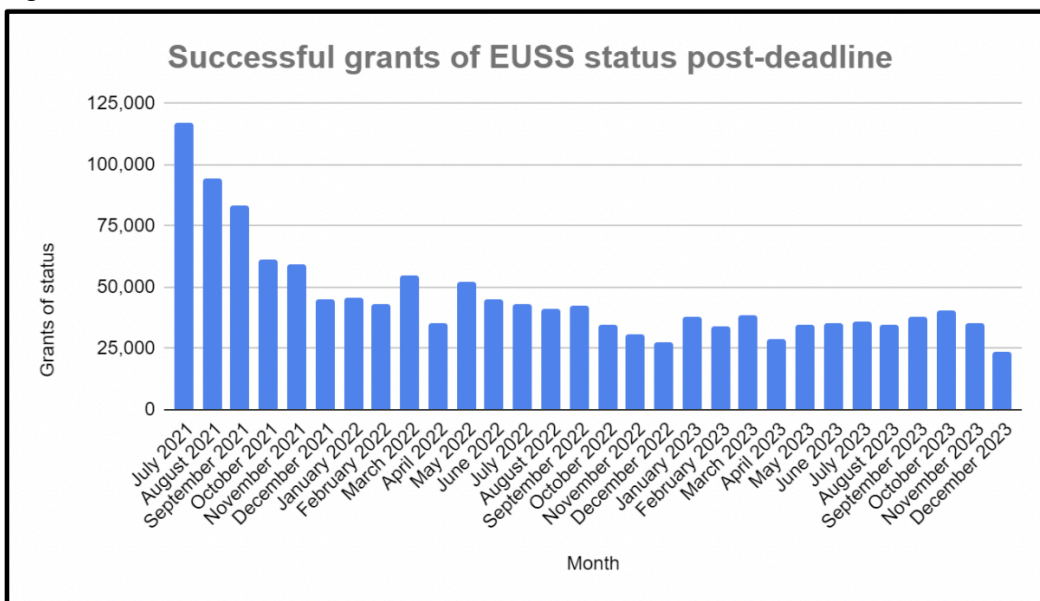


Figure 5:

