

Mr Kevin Foster MP

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

CC: SUGqueries@homeoffice.gov.uk

31 March 2021

Dear Kevin Foster MP,

Rights of those who are awaiting an EU Settlement Scheme decision on 1 July 2021

According to the latest released [EU Settlement Scheme statistics](#), there are 367,200 submitted applications which have not been concluded. There are thousands who are waiting for over a year for their decision, so it is a fair assumption that there will be a large number of people on 1 July 2021 who will have submitted an application before the deadline yet are still waiting on a decision.

We regularly hear from concerned applicants to the EU Settlement Scheme who are still waiting for a decision on their application, and are anxious about what will happen three months from now.

“If I don't get an answer from my application after 30 June 2021, will I be considered as an illegal citizen in the UK? They always remind us that we keep our rights until 30/06/2021, but after that date, if we don't get an answer from the Home Office, what happens? It's a disaster.”

It is not clear to them how they will prove their rights to work, rent or access benefits in the UK after 1 July.

Article 18(3) of the Withdrawal Agreement states that “*pending a final decision ... on any application ... all rights provided for in this Part shall be deemed to apply to the applicant*”. This includes therefore Article 23, the right to equal treatment, which states “*all Union citizens ... residing on the basis of this Agreement in the territory of the host State shall enjoy equal treatment with the nationals of that State*”.

We therefore have the following questions, all applying to an individual after 1 July 2021 who has submitted an application to the EU Settlement Scheme on or before 30 June 2021 and who has not received a decision on their application:

1. How can they be treated equally with a prospective British tenant? The [‘View and Prove Your Immigration Status’](#) website does not allow them to generate a share code. We are aware that the [guidance](#) says that a landlord should instead go through the ‘Landlords’ Checking Service’ but this is a complex process that only promises to return an answer within two days. This is highly likely to be a deterrent to small private landlords.

2. How can they be treated equally with a prospective British employee? The [‘View and Prove Your Immigration Status’](#) website does not allow them to generate a share code. We are aware that the [guidance](#) says that an employer needs instead to contact the Employer Checking Service to establish a statutory excuse. This added complexity may be acceptable for a large employer who has already decided that they want to employ this particular individual, however this is highly problematic for small employers or where there is high competition for a short term jobs such as in the gig economy (recent [research by the Department for Business, Energy and Industrial Strategy](#) estimated that over 4%, or almost 3 million people, had worked in the gig economy in the preceding 12 months).
3. How can they prove their rights to private service providers other than employers and landlords, given that the [‘View and Prove Your Immigration Status’](#) website does not allow them to generate a share code? Leaving aside the difficulties we are already seeing where organisations do not understand or trust the concept of a share code and are requesting documents from individuals, how will someone for example be able to apply for a mortgage if they can only tell their bank that they have been waiting for months for a decision on their status?

Even though we are currently still three months away from the EU Settlement Scheme deadline, we are **already** receiving many reports of problems for people who are waiting on a decision:

“Still didn’t receive an answer. Can’t rent a property, can’t plan anything as I don’t know if I can stay here with my family”

“I applied for pre-settled status on 23 December 2020. I still have to receive a reply. Pending that reply I cannot apply for a National Insurance Number, which is also causing me concern. My main problem is that I do not have a National Security Number. I need it to register for my HMRC self-assessment. I also need it to register to vote, which I mainly want to do because I can then more easily get a mortgage.”

“I haven’t received an update for more than 5 weeks now. I am distressed and anxious as I am about to lose a mortgage offer.”

“The length of processing time is making me really anxious and the fact that the HO EU resolution centre does not allow us to ask for a progress update makes it even more worrying.”

“My husband applied for a pre-settled status in December but is still waiting for his answer whereas I applied in December and got my pre settled status just in a few days. Since my husband doesn’t have a pre-settled status, he still cannot apply for National Insurance number (we live in Northern Ireland) as only having the status you get a share code which is needed for NI application. Also it causes significant anxiety waiting for so long when one of us has it and the other doesn’t. We are afraid to leave the country in case we have issues with the immigration when we come back.”

We look forward to receiving an answer to our questions above,

Kind regards,

Monique Hawkins
Policy and research officer, the3million