



# **the3million submission to Independent Monitoring Authority November 2022**

## **Impact of decision-making delays and digital borders on travel**

**Warning: Home Office 'New Plan for Immigration'  
will further increase travel chaos for EU citizens**

### **Who is the3million?**

the3million is a non-partisan grassroots organisation of EU citizens<sup>1</sup> in the UK, formed after the 2016 EU referendum to protect the rights of people who have made the UK their home. Our work ranges from monitoring the implementation of the Withdrawal Agreement, advocating for the integration of EU citizens through a pathway to citizenship, informing people of their rights, and giving EU citizens a voice in British society to change the narrative on migration.

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<sup>1</sup> Throughout this document, we use the broad term EU citizens to mean citizens of one of the member states of the European Union or the European Economic Area or Switzerland, and non-EU family members or dependents

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## Summary

Following the UK's decision to leave the European Union on 31 January 2020, EU citizens living in the UK have faced substantive changes to their rights and, importantly, to the means of accessing those rights. With the end of free movement an EU passport is no longer a simple proof, equivalent to a British passport, of the right to enter, work, rent, open bank accounts, be joined by family and more.

As this report will show, free movement has ended in more ways than one for many EU citizens who are protected by the Withdrawal Agreement and have done everything required of them, but who are nevertheless no longer able to “move freely” between the UK and the EU or their country of origin.

As at 15 November 2022, 32% of the 1,136 reports received by the3million through the Report-It! reporting tools related to travel problems. Travel was the single most frequently mentioned problem – whether people are prevented from travelling abroad, trapped abroad and unable to come (back) to the UK, or whether people are now feeling a deep anxiety about travelling that was never there before.

This report examines in depth the many aspects of the new barriers that are now in place, and indeed those that are yet to come in the very near future.

### **We first look at those waiting to be allowed to travel to the UK to join family members already here.**

There are heartbreaking examples of families separated for many months, including people who have yet to meet their child for the first time, and people desperate to look after elderly parents but unable to do so. We set out recommendations in several areas:

- **Policy** – there are several cohorts which we believe should simply be able to travel to the UK and submit an application to the EU Settlement Scheme from the position of being reunited with their family. The Government has effectively forced these people to apply for visas without justification when they should be free to travel, and we consider this to be both against the Withdrawal Agreement and an unnecessary waste of Home Office resources.
- **Delays** – applications to the EU Settlement Scheme Family Permit and EU Settlement Scheme have no published service standard and can take many months to be decided. These extended delays were already in place before the Ukraine war exacerbated them. This application cohort is the *only* one to be told they will receive a decision “as soon as possible” rather than being given a timeline defined in days or weeks. This is in stark contrast to the Withdrawal Agreement’s requirement of an “accelerated procedure”. Concerted efforts must be made to clear these backlogs, reduce decision times and publish concrete processing times.
- **Communication** - In the area of family reunion, much clearer guidance is needed for people to know whether they need to apply for a Family Permit or can apply directly to the EU Settlement Scheme, and whether they can travel to the UK, even if only as visitors, to be with their family.

**We then examine the travel rights and experiences of those who are currently in the UK but are still awaiting a final decision on their EU Settlement Scheme application.** Many are unnecessarily trapped in the UK for months or even years, unable to travel. By the very nature of this cohort, this is not a simple issue of holidays, rather it impacts on family related travel and places restrictions on those who

need to travel for work. The impacts include people being unable to visit sick relatives, attend funerals or other family gatherings. Our recommendations are summarised as:

- **Policy** – the Government should allow those living in the UK with pending EUSS applications to travel, as not to do so restricts their right of entry and exit as specified in the Withdrawal Agreement. Indeed, the Government’s move to a digital status can easily facilitate such a change of policy.
- **Delays** – as above, the delays to EUSS decision making strongly exacerbate the effects of the current policy and increasing resources to clearing the backlog must be a priority.
- **Communication** – correspondence between the3million and the Home Office has led to several changes to the wording of Certificates of Application and Gov.UK websites. However, much more is needed to provide clarity of rights of travel and required documents.
- **Digital status** – as covered by our March 2022 report to the IMA, system design decisions and other continued glitches of the EUSS digital status mean that some people are unable to correctly view or prove their pending status so that even those who would have the right to travel are prevented from doing so. Given the size of the cohort of UK residents to soon be subject to digital-only status, increased resources are essential to address individuals’ problems, along with consultation with civil society to address systemic issues.

**Next, we look at the group of people who have been granted status under the EU Settlement Scheme, but who nevertheless are experiencing many obstacles in their travelling.** Such obstacles range from not being confident they can plan to leave the UK, through humiliating experiences and delays at check-in, through to denial of boarding abroad or problems passing the UK border. Many who can prove their status in the UK are nevertheless denied boarding and held outside the UK for long periods of time, incurring costs, away from their family, home and jobs and forced to apply for a travel document when none should be needed. The Withdrawal Agreement states that citizens from the EU Member States can continue to travel with national identity cards, but many are prevented from doing so in practice. Our recommendations again cover all four areas of policy design, delays, communication, and issues around digital status.

- **Policy** – The Government must take full responsibility for its move to ‘digital by default’ which for a vast majority is ‘digital **only**’. Despite years of warnings from the3million and other organisations, the Government has opted for an accelerated removal of physical documents while not sufficiently instructing carriers. The Government must fundamentally prioritise the right of individuals with residence rights in the UK, over its carrier charging policy and its carrier removal obligations policy. Carriers must be strongly disincentivised to deny people the right to return to their home, and the Government must urgently put in place, advertise, and monitor clear routes to compensation from airlines. Carriers must not face removal obligations for allowing an EEA/Swiss citizen to travel to the UK with a valid identity document, as the current removal obligations policy fundamentally undermines the communications to carriers that they do not need to check these passengers’ immigration status. The IMA should investigate the many instances of denied boarding. Where such instances are because of incorrect Government information, the Government must offer compensation to individuals.

- **Communication** – even where Government policy is to allow people to travel, such as those who are covered by the Withdrawal Agreement and are travelling with national identity cards, their communication to airlines is confused and contradictory. Where current Government policy is to still require people to travel with a physical card, their communication has been incomplete, misleading, and in many instances completely incorrect. The Government should consult with individuals and representative organisations to test mass communications before they are sent out.
- **Delays** – Even though people in this cohort have their granted status under the EUSS, there are nevertheless many areas where delays are causing travel problems. While updating digital status with a new identity document is fairly smooth for some, it can take months for many others. Long delays in applications for replacement biometric residence cards, and the time waiting for (unnecessary) travel permits to be granted are causing harm. Broken digital status which is not fixed for individuals despite repeated calls to the Home Office helplines result in those individuals feeling imprisoned within the UK.
- **Digital status** – ironically, the problems for this cohort affect both those who the UK Government has *required* to travel with a digital-only status without physical backup, and those who the UK Government has *required* to travel with a physical document despite also having a digital status. We repeat our urgent call on the Government to engage substantively with us and other organisations, to discuss well-founded proposals which can address both these problems in a cost-effective and highly secure way, while maintaining the Government’s direction towards a digital-by-default Home Office.

**Finally, the report examines the impending changes that have been announced by the UK**

**Government.** Within the next two years, the Government intends to introduce the Electronic Travel Authorisation (ETA), around the same time as all currently existing biometric residence cards and permits will expire. We consider that the problems experienced thus far (when in theory carriers are *not* required to test the immigration status of EU, EEA and Swiss citizens) are a clear early warning signal of the huge volume of anticipated problems that will be encountered once these changes take effect. While delivery dates of large software projects (such as the interactive API infrastructure required to be in place before ETA can be launched) are almost invariably extended, the expiry dates printed on hundreds of thousands of physical biometric documents are fixed. It would be a very costly and impractical operation to issue new biometric documents to all affected individuals. Equally, it would cost the travel industry significant delays to manually check everyone’s status via a government web portal. It will also be an unacceptable outcome if even more people are denied travel despite having the underlying right to do so.

The Immigration Law Practitioners’ Association (ILPA) recently wrote a letter, signed by 166 of its members, to the Home Office about severe delays in application processing and urged it to *“reconsider its ambitious plans to roll out further technology and digitisation until all existing problems are fixed and the digital transformation of the system is stable.”* the3million likewise calls on the Home Office to pause its plans in the light of what is set out in Chapter 5 of this report.

We call on the Government and the Home Office to engage with us constructively, as we believe we can offer practical solutions to the identified problems which will be cost effective, secure, and we believe able to be implemented in the time available.

We make a number of recommendations to the IMA throughout this report, and we summarise these in Chapter 6. However, we want to stress that a great many of the issues highlighted in both our November 2021 report (regarding the extent and impact of delays in the EU Settlement Scheme) and our March 2022 report (regarding the challenges of maintaining a digital status) have travel implications and are still ongoing. As such, the recommendations in those reports should be included in the IMA's examination of how the right to enter the UK, as protected by the Withdrawal Agreement, is being upheld for EU citizens and their family members.

Furthermore, consideration of future policy, communications and practices is not sufficient. The IMA must also include in its consideration the question of compensation and restitution for those who have suffered harms arising from the denial of their Withdrawal Agreement rights, whether through losses from separation, delays, or denial of travel or entry to the UK.

## Chapter 1. Introduction

1. This is our fifth report to the IMA. Our first report (February 2021<sup>2</sup>) set out the key outstanding points surrounding the implementation of EU citizens' rights at the time when the IMA became operational. Our second report (August 2021<sup>3</sup>) examined in detail all areas of rights and legislation affecting EU citizens. Our third report (November 2021<sup>4</sup>) analysed the extent and impact of the delays faced in all areas of the EUSS, and the fourth report (March 2022<sup>5</sup>) analysed the challenges of maintaining a digital status.
2. the3million created its report-it tool on digital status issues [REPORT-IT-DIGITALSTATUS]<sup>6</sup> in December 2020.
3. In February 2021 a second report-it form was created [REPORT-IT-EUSSPROBLEMS]<sup>7</sup>, to capture problems applying for status under the EUSS or applying for EUSS Family Permits. Both forms are available on the3million's website at <https://the3million.org.uk/report-it>.
4. In April 2022, new versions of both forms were made available. REPORT-IT-DIGITALSTATUS was upgraded to take account of the fact that all migrants now have to prove their right to work and rent by providing a digital share code. The form is therefore no longer EUSS digital status specific.
5. Almost every respondent on REPORT-IT-EUSSPROBLEMS faces travel restrictions, given the decision by the UK Government to generally not allow people to travel on the strength of a pending EUSS application unless they already have some other form of leave to enter such as an EUSS Family Permit or a UK issued biometric residence card. There are some exceptions to this policy for those who were already living in the UK before the end of the transition period, but the confusion and lack of clear communication around this has meant that many more felt unable to travel.
6. There are those who are outside the UK unable to travel to the UK to join their family members, and there are those who are in the UK but unable to safely travel abroad secure in the knowledge that they will be able to return to the UK.

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<sup>2</sup> the3million (2021) - [12](#)

<sup>3</sup> the3million (2021) - [13](#)

<sup>4</sup> the3million (2021) - [14](#)

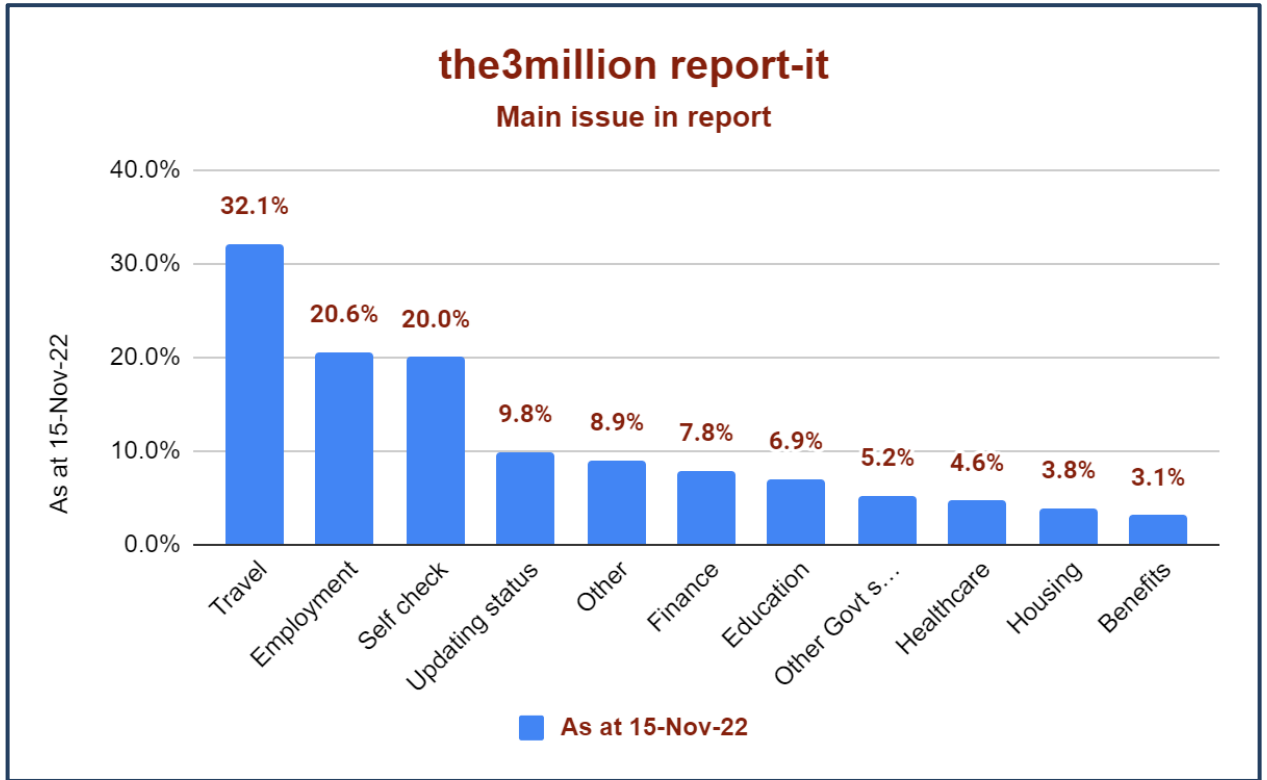
<sup>5</sup> the3million (2022) - [15](#)

<sup>6</sup> the3million (2020) - [2](#)

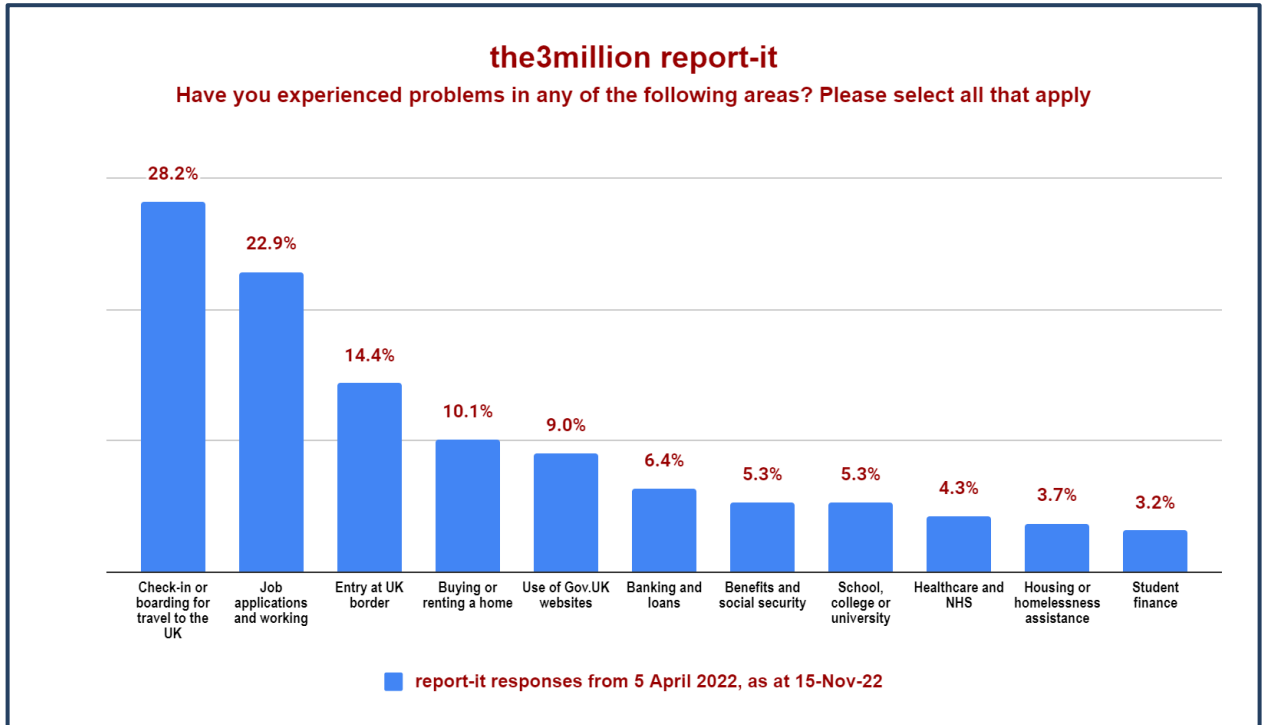
<sup>7</sup> the3million (2020) - [3](#)



7. When all responses to (both versions of) REPORT-IT-DIGITALSTATUS are categorised for the main reported reason for using the View & Prove system at time of report, travel is the most frequent issue – being the main reason for reporting for 32% of respondents. This includes both problems checking-in or boarding for travel to the UK, or when entering at the UK border.



8. In the upgraded REPORT-IT-DIGITALSTATUS, respondents are able to select all the areas where they have experienced problems with regard to proving their status. The chart below shows that over 28% of respondents reported having problems checking in or boarding for travel to the UK, and 14% have had problems entering the UK.



## Chapter 2. Those yet to receive permission to come to the UK

### 2.1 Summary

9. The Withdrawal Agreement ensures that certain family members have the right to join their EU family member (sponsor) in the UK. The family members who are in scope of this right are set out in Article 10.
10. Article 14(3) states *“Where the host State requires family members who join the Union citizen or United Kingdom national after the end of the transition period to have an entry visa, the host State shall grant such persons every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible, and on the basis of an accelerated procedure.”*
11. the3million considers that the Government’s policies frustrate Article 14(3) at many levels (see sections 2.2 - 2.4 for more detail):
  - EUSS Family Permits are the only type of entry visa which do not have a specified service standard attached to them on the Government’s ‘Visa decision waiting times’ website<sup>8</sup>, saying only they will be granted ‘as soon as possible’. Many applications are taking longer than any of the published service standards for other types of entry visa and these permits **cannot be said to be issued “on the basis of an accelerated procedure.”**
  - Furthermore, unless people pay for an extra service which is not necessarily available everywhere, and which in any case would then mean the visa is no longer issued ‘free of charge’ as required by Article 14(3), they are separated from their passports for months on end, **effectively prevented from travelling anywhere** outside their country.
  - **The scope of those who are being required to obtain leave to enter before travelling to the UK has been expanded to include *all* family members of all nationalities**, rather than only including those nationalities who are on the UK’s visa national list. **All** family members who want to join their sponsor need to obtain either an EUSS Family Permit, or status under the EUSS before travelling. We cannot see the justification for this and have written to the Home Office about this<sup>9</sup>.
  - We would argue that the policy of **not allowing someone with a pending EUSS application to travel to the UK breaches Article 18(3)** which states *“all rights provided for in this Part”* should be deemed to apply to the applicant. Article 14 – the *“Right of exit and of entry”* – sits within the same Part Two of the WA and therefore clearly should be deemed to apply to pending EUSS applicants.
  - In the absence of any published data on EUSS processing times, the data that is available through FOIs and our anecdotal data suggests that **joining family member who can apply directly to the EUSS cannot be said to be issued their leave to enter “on the basis of an accelerate procedure”**.

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<sup>8</sup> Gov.UK Guidance (2022) - [58](#)

<sup>9</sup> the3million and Home Office (2022) - [9](#)

12. Joining family member travel restrictions are particularly harsh on new-born children who are born outside the UK and are unable to be brought to the UK for months on end (see section 2.5).
13. There is a cohort of people who have rights under the Withdrawal Agreement to live and work in the UK, but who are prevented through policy and process implementation from traveling to the UK (see section 2.6).
14. Another consequence of UK implementation is that a cohort of durable partners is forced to leave the UK for six months before being able to apply for an EUSS Family Permit (which can itself take over six months) to be granted the permission to return to the UK (see section 2.7).

## 2.2 Who needs an EUSS Family Permit before travelling

15. All family members who wish to join their sponsor in the UK are required to first apply for and be granted an EUSS Family Permit before travelling, except those who can apply direct to the EU Settlement Scheme from abroad<sup>10</sup>:
  - Those with EEA/Swiss valid passports or national identity cards with a biometric chip
  - Those with other nationalities who hold a valid UK-issued biometric residence card (i.e. people who would have lived in the UK at some time before 31 December 2020 on the basis of a family member of an EEA/Swiss citizen)
16. This therefore includes citizens from a lot of countries who are not on the UK's visa national list. Whereas for example an Argentinian citizen without any links to the UK can travel to the UK and enter for six months without any documents or formalities, an Argentinian family member of an EEA/Swiss citizen who wants to apply to join their sponsor must wait on average seven months for the grant of an EUSS Family Permit before even being able to travel to the UK and go on to submit an application to the EU Settlement Scheme.
17. We wrote to the Government<sup>11</sup> on 15 April 2022, to ask for their justification of this policy. Their reply of 19 August 2022<sup>12</sup> made clear that even in the context of a specific question for **non-visa nationals**, they were invoking Article 14(3) of the Withdrawal Agreement to justify entry visas: *"The Withdrawal Agreement does not require the UK to permit joining family members entry to the UK without an entry visa. Article 14(3) of the Withdrawal Agreement explicitly allows the UK to provide a visa system for entry."*
18. the3million does not understand why non-visa nationals are required to apply for an entry visa, and would query whether this is a reasonable interpretation of Article 14(3) of the Withdrawal Agreement.

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<sup>10</sup> Gov.UK (2022) - [56](#)

<sup>11</sup> the3million and Home Office (2022) - [9](#)

<sup>12</sup> Q4 on page 3 of letter 19<sup>th</sup> August 2022 – the3million and Home Office (2021-2022) - [1](#)

19. Although the current website about EUSS Family Permits<sup>13</sup> includes information on who can apply directly to the EUSS, it does not easily link up to the EUSS webpages. This was not always the case. For example, in June 2021 an advisor reported to us that this family applied unnecessarily for a Family Permit. The website at the time<sup>14</sup> contained only a minimal sentence about the EUSS without any links or information of which categories of citizens could apply directly to the EUSS.

*“Applicants were the wife and 4 children of our EEA national client who has pre-settled status. They are all EEA nationals who were living in the EEA country but did not realise that they could just apply to EUSS and instead applied for EUSS Family Permits on 28/06/2021. They did not receive their FPs until about 12/11/2021, after intervention from their MP. Processing time of 19 weeks. The applicants were all without their passports from date of their biometrics appointment. This meant they could not travel outside of the country they were living in while they waited. We informed them 12/10/21 that they could have just applied to the EUSS, but they could not do it then because they were without their passports. The whole family was kept stressed and anxious. The children could not move to UK before the start of the new school year.” - January 2022*

20. It is important to reiterate that even if this family had applied directly to the EUSS, they would not have been allowed to travel to the UK until they were granted status, and this may also have taken a long time. This will be covered in more detail in the section “*Those waiting for EUSS decisions*”.
21. ***Policy change should be sought such that joining family members whose nationality is not on the UK’s visa-national list are allowed to travel to the UK without first needing to have obtained EUSS status or an EUSS family permit. They should be allowed to enter the UK for the express purpose of being reunited with their family sponsor and submitting an in-country EUSS application.***

### 2.3 Those waiting for EUSS Family Permit decisions

22. No data is published on the processing times of EUSS Family Permits. However, correspondence from the Home Office to the3million<sup>15</sup> showed that in the year to February 2022, the average processing time for an EUSS Family Permit to be issued steadily rose from around two months to seven months.
23. A Freedom of Information request<sup>16</sup> revealed that the mean processing time for EUSS Family Permits that were decided in the year to 31 May 2022 was over 22 weeks, just over 5 months.
24. A more recent FOI<sup>17</sup> showed that the trend in EUSS Family Permit processing time continued after February 2022, where the average time for family permits to be issued was over 9 months by June 2022.

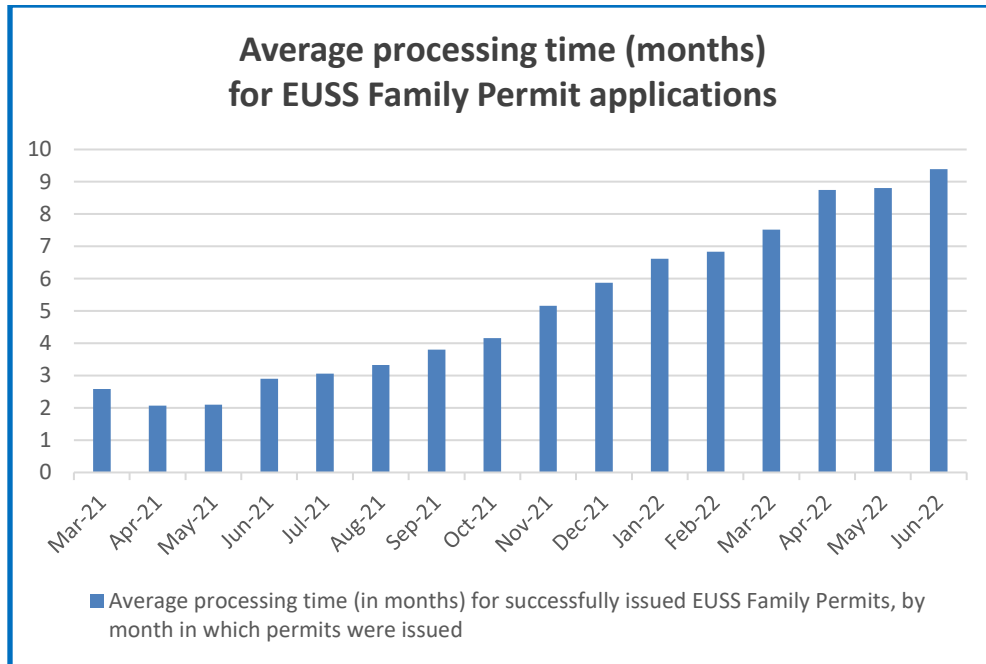
<sup>13</sup> Gov.UK (2022) - [46](#)

<sup>14</sup> Gov.UK Archive (2021) - [48](#)

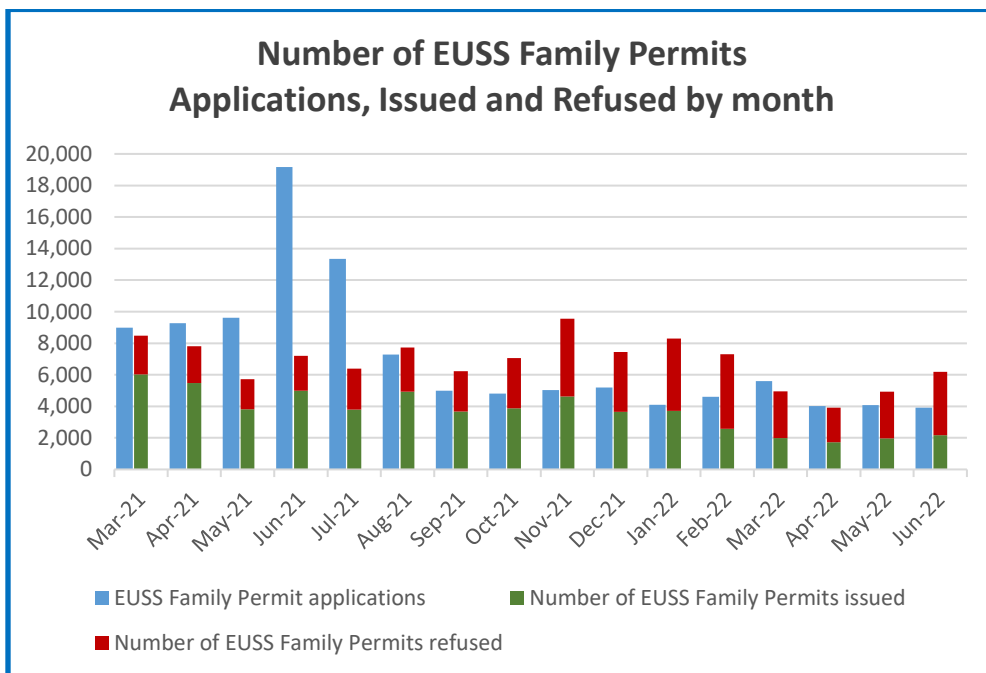
<sup>15</sup> the3million and Home Office (2022) - [8](#)

<sup>16</sup> Home Office FOIA (2022) - [20](#)

<sup>17</sup> Home Office FOIA (2022) - [25](#)



25. The average time before an EUSS Family Permit was refused was over 5 months for refusal decisions made in June 2022. These figures are against a backdrop of steady to slightly falling application numbers and increasing percentages of refusals.



26. The waiting time only starts once applicants have attended a biometric appointment<sup>18</sup>. These can be difficult to obtain, for example this lawyer reported:

*“I submitted an EUSS Family Permit application for a couple as parents of an EU national on the 6th April. I have been checking daily at various times and there are no biometric appointments available. I*

<sup>18</sup> Gov.UK Guidance (2022) - [58](#)

*have emailed the customer care team and also the on-demand service to secure one but to no avail. I've been told by the customer care team that biometric appointments are released every few days and to keep checking! The on-demand service have said they are too busy to provide the service.” – April 2022*

**27. Decisions for EUSS family permits must be taken more quickly than other family routes including visit visas. The UK Government should be required to set a clear service standard for EUSS family permits applications, which must be expressed in a number of weeks rather than ‘as soon as possible’. Failure to do so is a breach of Article 14(3) of the Withdrawal Agreement which refers to “accelerated procedure”. The service standard must be shorter than the service standard of any other family route including visit visas.**

28. We received many reports from applicants who faced consequences from having their passports withheld. This was made worse by not having any realistic expected processing times for their application.

*“My mum’s passport is still kept by the UKVI. No one is able to answer when can she have it back. That’s the only document she can travel on. The TLC contact which has been used as the provider to pass all of the relevant documents said she will need to withdraw her application if she urgently needs her passport back. Which I find really unfair especially because it’s been kept for almost a year now. UKVI keeps sending me through to the Settlement Department and the Settlement department are ignoring my request by sending an automated reply with information that the deadline for the application was June 2021.” – October 2021*

*“We submitted the applications for my parents under the EUSS Family permit in February but we haven’t received any further updates from the UKVI and are unsure how much longer it would take to receive back the passports. They are unable to make any arrangements for travel as they don’t have their passports.” – April 2022*

29. The long processing time causes many families to remain separated, and has serious impact on mental health:

*“Waiting 7 months for an EUSS family permit application and still no decision made. My passport has been held all this time which means I couldn’t travel for 7 months. My mental health has suffered, not seeing my wife so long, not knowing what will happen next waiting an indefinite period of time.” – February 2022*

*“We are still waiting for an unknown length of time for my husband to join me and my two young children in the UK. During this time my husband is unable to Visit or join us as UK immigration continues to hold his passport until they’ve made the decision. It’s now causing mental health issues for my two young children and depression for my husband being isolated in a country he has no place to stay so he’s having to couch surf with relatives as we’ve sold our apartment, He is unable to make any future travel plans and cannot make any banking decisions as he does not have his form of identification - his passport” – February 2022*

*“Applicants are the wife and 2 children of our EEA national client, who has EUSS status. They attended a biometrics appointment in November 2020. Children were issued with FPs Feb 2021, valid to August 2021, but their mother had still not yet been granted hers in Dec 2021. The children were unable to travel to UK without their mother. Processing time so far of the mother’s FP up to our last contact with client was 56 weeks. Only way to chase FP applications is via phone call or email (paid for by bank card) to UKVI’s visa applications from abroad number. This means supporting organisation cannot make the call for the client. EUSS Resolution Centre cannot help or give updates. EEA national has been denied his rights to live with his family, even though his children’s FPs were issued. The whole family is living under stress and uncertainty for over 2 years.” – January 2022*

**30. Policy and process change should be sought such that people applying for EUSS family permits are never required to give up their passport while they wait for a decision on their family permit.**

31. Alongside the anxiety and stress of waiting for a decision, there are many practical impacts with financial consequences from the long delays especially combined with the lack of expectation management:

*“When I did the biometrics at the VAC in September 2021, I was told it would take 15 working days. We planned to move in December, figuring everything would be fine then. In November I got a confirmation email from UKVI, saying my application is prepared for decision making. I assumed it would take maybe a few days after this. In early December I tried calling all the phone numbers on the gov UK website, but kept getting an automated message saying: “Thank you for your call, goodbye”. Several days later I finally got through. They told me the standard processing time for the family permit is 12 weeks! My partner and I both quit our jobs in December. So we don't have income at the moment. There is no point looking for a job in the [the country I am in], because by the time I find something, I will have to move.” – January 2022*

*“My [EU citizen] father was planning to emigrate to the UK last year, but due to Covid could not travel. He applied for a EUSS family permit to join me and my family here and on the application it said it would take 4-6 weeks. It is now nearly four months. My parents sold their house and have bought a flat here in London, and so while they wait for the decision they are effectively homeless. The impact has been nothing short of devastating. My parents are in their late 70s and we could not risk their health to travel to the UK before the Brexit deadline in Covid times. And now they are trapped in [the country of their residence] unable to see me, their only child and my daughter, their only grandchild. I am also 7 months pregnant and the stress and anxiety of being separated from my parents is almost unbearable for all of us. It could be another four months, it could be four days, the lack of communication and information is inhumane.” – June 2021*

32. Published EUSS Family Permit statistics<sup>19</sup> shows that up to June 2022, there have been 188k EUSS Family Permit applications, of which 58% (96k) have been granted, 41% (68k) have been refused, and 12% (22k) are still pending.

33. We are currently attempting to obtain data via FOI on the number of appeals to EUSS Family Permits<sup>20</sup>, but have been told that this would incur disproportionate cost because “*data relating to out of country EUSS Family permit applications and final outcomes (grants etc) is held on one system, and the appeals data is held on a separate system.*” However, if the data on EUSS Family Permit appeals resembles that of EUSS appeals (see paragraph 49), there will be many EUSS Family Permit refusals that were overturned after lengthy appeals.

34. We are receiving reports that the appeals are taking a very long time to be heard, extending the impact of the process:

*“We applied for an EUSS family permit which got rejected. We then appealed in court for a paper hearing and submitted new evidence (in March). I have no information yet on a date for appeal. As his sponsor - It is impacting my job and mental health, as an NHS keyworker I feel really let down (after working all through the pandemic, risking my life for this country and dealing with crisis). I live alone here, and this is impacting our marriage, we cannot be together, cannot start a family or plan the future.” – May 2022*

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<sup>19</sup> Gov.UK (2022) - [65](#)

<sup>20</sup> Home Office FOIA (2022) - [26](#)



35. Even where appeals are won at First Tier Tribunal, people are reporting that they then continue to wait for a new decision to be made granting them their EUSS Family Permit:

*"I had applied for an EUSS Family Permit for my dependent parents in May 2021. The HO did not send us any updates for many months, despite various follow ups. All the paid enquiries we raised were automatically closed in 2 weeks without resolving or an update. We even wrote emails to the HO and to our local MP. Finally, in the end of Nov 2021, they sent us rejection letters claiming that there was no evidence I was living in the UK.*

*We appealed to the First Tier Tribunal. The decision arrived in May 2022. Based on the evidence submitted by us, the Tribunal has allowed the appeal in our favour. It's been several weeks since the decision has been granted by the tribunal. The HO has still not responded or acted on the decision given by the tribunal. Furthermore, they are not responding to our email requests. It's been an entire year since the application was made and even after the decision in our favour, there seems to be no clarity on when my parents will finally be granted the permits and be able to travel to the UK.*

*We as a family are still separated even though we lawfully have a right to live together. They are old and need my support. Last year they both contracted the dreaded Delta variant of the Coronavirus and there was no one to take care of them. Moreover, my mother suffered an injury, and that left them both quite helpless. I couldn't fly back due to the lockdowns." – May 2022*

36. **Processing times of EUSS Family Permits should be published on a transparent and regular basis, to ensure compliance with the service standard set above and thereby with Article 14(3) of the Withdrawal Agreement. Data, including processing times, on appeals of EUSS Family Permits should also be published on a transparent and regular basis. In the interim, the IMA should pursue data on EUSS Family Permit appeals that was refused via FOI<sup>21</sup>.**

37. The fact that many people are only granted their EUSS Family Permit after going through a lengthy appeals process, together with the fact that the Home Office does not appear to always consider family applications holistically as a group, leads to a specific problem for some family members of 'chasing visa expiry dates' where it is impossible for one person to travel without the other (for example a parent with a child):

*"A father, mother and 6-month old child applied for family permits in 2020. The child was granted an EUSS Family Permit, but the parents were refused. However, after a long appeals process the parents were granted their family permits a year later. By this time, the child's visa had expired, which meant that while the father travelled to the UK the mother stayed abroad with the child while they waited for a new EUSS Family Permit decision for the child which they had submitted some time earlier in anticipation of the parents being successful at appeal. The child's second EUSS Family Permit application has been pending for 11 months. The parents do not understand why this is taking so long given that the child is so young and had already been granted a visa a year earlier. They are now getting worried that by the time the child's visa is granted, the mother's visa expires, thereby being caught in a situation of chasing each other's expiry dates." - November 2022*

38. **The Withdrawal Agreement protects family reunion rights of those EU citizens who had moved to the UK before 31 December 2020. Article 14(3) requires that the UK grants family members every facility to obtain the necessary visas, on the basis of an accelerated procedure. The Home Office therefore has a clear responsibility to process family groups holistically, to facilitate their permission to come to the UK. The IMA should investigate whether and how family permit applications from family members are considered holistically as a group.**

<sup>21</sup> Home Office FOIA (October 2022) - [26](#)

39. ***the3million has had extended correspondence with the Home Office on the problems around EUSS Family Permits. EUSS Family Permits do not appear to feature on the IMA's issues log<sup>22</sup> as at the time of writing. We ask that the IMA engages with the problems and delays around EUSS Family Permits, given the gravity of the impacts on families.***

## 2.4 Those waiting for EUSS decisions

40. The Government have told us in correspondence<sup>23</sup> that *“The Withdrawal Agreement does not require the UK to permit applications to the EU Settlement Scheme to be made outside the United Kingdom. However, the UK has implemented a more general approach whereby applications can be made overseas when someone possesses the relevant documents, as set out in Appendix EU. Pending the determination of someone’s application made overseas, Article 18(3) of the WA does not provide that they should be permitted to travel to the UK.”*
41. We would argue that Article 18(3) **clearly does** provide that they should be permitted to travel to the UK, since Article 18(3) states **“all rights provided for in this Part”**, and Article 14 – the “Right of exit and of entry” - falls within the same Part Two of the WA.
42. In practice therefore, **the Government has effectively forced both EEA/Swiss nationals and those who have previous UK issued EEA residence cards to apply for visas**, by requiring them to have leave to enter before they can travel to the UK to join their family members.
43. Moreover, the Certificates of Application (CoAs) granted to these family members are misleading since these CoAs state that the applicant now has the right to work in the UK, whereas they will be prevented from entering the UK if they attempt to travel to join their family.
44. For those family members entitled to apply directly to the EUSS from abroad and who are waiting on a decision before being allowed to travel to the UK, no data is published on the processing times of EUSS applications, not even as aggregated across all application types.
45. Via a Freedom of Information request<sup>24</sup>, we were able to learn how many applications in the lifetime of the EU Settlement Scheme (as at 30 June 2022) were concluded within a month, within 1-3 months, within 3-6 months, within 6-12 months, within 1-2 years, and in more than 2 years. The results, along with some calculations are displayed below:

Calendar Days between Application and Despatch Date (Grouped)	Number of Applications		Percentage Applications taking...	
		Percentage		
Completed in 30 Days or Less	3,778,071	58.36%		
Completed in 31-90 Days (inc)	1,452,449	22.44%	41.64%	longer than 30 days
Completed in 91-180 Days (inc)	900,535	13.91%	19.20%	longer than 90 days
Completed in 181-365 Days (inc)	317,374	4.90%	5.29%	longer than 180 days
Completed in 366 - 730 Days/1-2 Years (inc)	24,166	0.37%	0.39%	longer than 1 year
Completed in 731+ Days/Over 2 Years)	983	0.02%	0.02%	longer than 2 years
<b>Total</b>	<b>6,473,578</b>			

<sup>22</sup> Independent Monitoring Authority (2022) - [87](#)

<sup>23</sup> the3million and Home Office (2022) - [9](#)

<sup>24</sup> Home Office FOIA (2022) - [27](#)

46. These results show that almost 42% of all applications to the EU Settlement Scheme took longer than the 1 month as advertised on the “EU Settlement Scheme: current estimated processing times for application” webpage<sup>25</sup> which has not been updated since 22 May 2020. Updating this webpage, and setting realistic expectations, was a recommendation in the following:
- Recommendation 2 in the ICIBI’s inspection of the EU Settlement Scheme (April 2019 to August 2019)<sup>26</sup>
  - Recommendation 6 in the ICIBI’s further inspection of the EU Settlement Scheme (July 2020 - March 2021)<sup>27</sup>
  - Recommendation paragraph 117 of the3million’s November 2021 report to the IMA on the impact and analysis of delays in the EU Settlement Scheme<sup>28</sup>
47. We also have successful FOI requests which break down the EUSS backlog by length of time an application has already been in the backlog. The most recent of these<sup>29</sup> shows that as of 30 June 2022, over 43,000 applications had been pending for over a year, and over 40,000 applications had been pending for between 6 months and a year. We do not have data available to break this down by type of EUSS application, so we cannot know how long joining family member applications are taking.
48. However, we have received many reports of people waiting a long time, and the impact this is having on their family life and decisions such as where to live:

*“The application is for my wife and children to join me in the UK. I received my settled status in January 2020 and the application process took less than a fortnight. For my family we had to apply while they are still outside the UK referencing my settled status and providing the marriage certificate and birth certificates for the children. We have not been asked to provide any further information and yet 2.5 months later we still have no decision. I'm worried about them traveling to the UK for a visit while their application is pending as I've been reading horror stories about EU citizens detained and deported at Heathrow. We're effectively in limbo until a decision either way is provided. It's been very stressful especially as they are afraid to visit while the application is still pending.” – June 2021*

*“My husband applied as my joining family member. He applied online using the EXIT app with an EU identity card. He has no criminal record. We don't know why he has not heard anything yet. We called the Resolution Centre 3 times, they assured us the application was there, it was 'looking fine, just keep waiting'. I have pre-settled status since November 2021, this can't be the problem. The Resolution Centre say they can't do anything. We have to wait. We were totally unprepared for this, since we read on the gov.uk website that processing time is around 5 working days, and I got my status within 2 weeks. We sold our house, trusting he would get his status in time, and arranged the removal this September. We were separated for 4.5 months, because I had to remain in the UK to retain my status and he could not come over. Hopefully he will be allowed in the UK as a visitor in September, or else we would be apart again. He now needs to arrange for a new address [in the country where he is residing], we may have to rent something, in order for him to stay somewhere if necessary and to retain his healthcare rights. And we need to book a return ticket for him as proof that he will leave the UK again. He will have no access to the NHS. There are no official updates on processing times to be found anywhere, so we don't know what to do. All this causes much uncertainty, he is under too much stress, has sleeping problems and feels exhausted.” – August 2021*

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<sup>25</sup> UKVI and Home Office (2020) - [29](#)

<sup>26</sup> Independent Chief Inspector of Borders and Immigration (2020) - [72](#)

<sup>27</sup> Independent Chief Inspector of Borders and Immigration (2022) - [74](#)

<sup>28</sup> The3million (2021) - [14](#)

<sup>29</sup> Home Office FOIA (2022) - [22](#)

49. As of 30 June 2022, 5% (306,300) of EU Settlement Scheme applications had been refused<sup>30</sup>. A Freedom of Information Request<sup>31</sup> shows that 2,936 appeals were lodged under the EUSS to 28 February 2022, of which only 790 (27%) had been decided at the First Tier Tribunal. Of those decided, 295 appeals (37%) had been allowed, of which only 34 of those (11.5%) had resulted in a grant of (pre-)settled status. People who have to go through this process will have faced delays in getting their appeal heard, only to then have to wait even longer for the Home Office to act on the appeal decision and issue the EUSS status.
50. Those who applied for an Administrative Review after receiving a refusal face extremely long waits. An FOI<sup>32</sup> shows that as of 30 June 2022, of the 12,552 administrative reviews received since the start of the EU Settlement Scheme, 10,928 (87%) had not yet been processed.. Of those that were still pending, 76% had been waiting for more than 3 months, 59% had been waiting for more than 6 months, and 14% had been waiting for more than a year.
51. ***Policy change should be sought such that with immediate effect, all those whose nationality is not on the UK's visa-national list can travel to the UK on the basis of an existing pending EUSS or EUSS family permit application. Failure to do so is a breach of Article 18(3) of the Withdrawal Agreement for those with pending EUSS applications.***
52. ***Processing times of EUSS applications should be published on a transparent and regular basis. Data, including processing times, on administrative reviews and appeals of EUSS applications should also be published on a transparent and regular basis.***

## 2.5 Children born abroad to parents resident in the UK

53. A particular concern around joining family members and family permits is that of new-born children when they are born abroad. People report to us about their confusion in knowing what application to make, and the delays of either route cause severe impacts through families being split:

*"I am applying for my 6-month-old daughter who was born outside the UK. I have settled status. I have been getting conflicting advice from home office what route to take (directly applying vs first applying for EUSS family permit). We opted for family permit after which we should apply for settled status inside the country. What was supposed to take 15-20 days is currently 12 weeks waiting without any sight of decision. This mean father + older daughter has had to live separated (in the UK) from mother and youngest daughter (in [EU country]) the latter not allowed to enter the UK. We are now near the end of the permitted time for mother to stay in the EU (she has a Schengen visa). Neither [EU country] or UK wants to make an exception to extend the Schengen visa / grant the Family Permit because they don't consider it emergency enough.*

*If we don't get a decision soon mother will be separated from daughter, no longer be able to give breastfeeding or care, causing much traumatic damage.*

*The absurd thing is that we still keep getting conflicting advice. One employee of UKVI resolution centre says we can ask the passport back and apply for settled status via the app, after which daughter would be able to travel to the UK. Our trusted adviser who claims to have asked the head of EU settlement scheme directly insists this is strictly not allowed." – December 2021*

<sup>30</sup> Gov.UK (2022) - [64](#)

<sup>31</sup> Home Office FOIA (2022) - [19](#)

<sup>32</sup> Home Office FOIA (2022) - [24](#)

54. The separation of families even extends to parents leaving a new born baby behind with grandparents, because they need to get back to the UK. These parents, both with settled status, cannot understand the length of time taken to issue an EUSS Family Permit to a baby where there can be no possible security concerns. They consulted the UKVI website and understandably thought 'as soon as possible' would be a matter of weeks, but when telephoning UKVI were told it could take up to 12 weeks. In fact, as we described earlier, the average EUSS Family Permit issued in June 2022 took 9 months.

*"My wife [non-EU citizen] and I [EU citizen] are both scientists working in the UK, and have EU settled status. When my wife expected our first child, we decided it will be the best for her to be with her family in [non-EU country]. In July 2022, our daughter was born. Just over three weeks later her [EU] passport was given by the Consulate. Following the guidelines outlined on gov.uk (<https://www.gov.uk/family-permit/apply-joining-family-member-eu-switzerland-norway-iceland-liechtenstein>), we applied for a EUSS family permit with the relevant documents (biometrics were taken in early August 2022) so that she could travel with us back to the UK and apply for settled status.*

*The official information about waiting times (<https://www.gov.uk/guidance/visa-decision-waiting-times-applications-outside-the-uk#join-family-in-the-uk>) states that EUSS family permits will be processed 'as soon as possible'. However, when we didn't hear from UKVI for eight weeks, I contacted them and was informed that the decision can take up to 12 weeks! We have waited now for 13 weeks without any news. This does not seem to be 'as soon as possible'.*

*We had originally planned that my wife and baby could return to the UK three months after birth and that 8 weeks would be more than enough for any paperwork. We do not understand why a family permit for a baby, with no history to be checked or possible threat to society, would take so long. My wife and I pay our taxes and are law-abiding residents of UK without a blemish on records. These additional delays are causing serious stress, issues with work and made it difficult to plan any travel (we changed flights twice already). Now we have decided to keep our daughter with her grandparents and that my wife comes back to the UK alone. This was an extremely difficult decision and we are not happy having to leave behind our little daughter." – October 2022*

55. We wrote to the Home Office about this in October 2021<sup>33</sup>, highlighting the fact that the restrictions on joining family members travelling to the UK appears particularly harsh for babies. The 30 November 2021 response from the Home Office did not address this email, and despite chasing into January 2022 we did not receive a response on this point. We do note though that the 'EEA nationals at the border post grace period' guidance<sup>34</sup>, published in January 2022, indicated that children without status or with pending status might be accepted to enter the UK if their parents had EUSS status under 'compelling reasons'. We do not however consider this a sufficient policy response.
56. ***Policy change should be sought such that new-born children of any nationality, whether on the UK's visa-national list or not, should be able to travel to the UK with parents who have status under the EUSS, without being required to first acquire either an EUSS family permit or status under the EUSS.***

<sup>33</sup> Page 7, the3million and Home Office (2021) - [5](#)

<sup>34</sup> Gov.UK Guidance (2022) - [59](#)

## 2.6 Those with rights but unable to apply for EUSS Family Permit or EUSS status

57. There are some people who are currently outside the UK, who have rights under the WA, but are prevented through the Government's implementation of the WA through Appendix EU and Appendix EU (FP) from applying for any document that allows them to travel to the UK.
58. This includes for example a visa national who has Permanent Residence rights from a previous relationship where that relationship no longer exists. Their rights under the WA, and therefore their right to enter the UK, is not conditional on their continuing relationship because they have Permanent Residence in their own right. They are therefore not joining family members who can apply for an EUSS Family Permit. They also cannot apply direct to the EU Settlement Scheme from abroad if they do not have a current valid BRC, because for example it is expired or they had paper or other evidence of permanent residence.
59. We wrote to the Home Office about this in April 2022 and received a reply in July 2022<sup>35</sup>. In its reply, the Home Office said that in some cases people can apply for an EUSS Family Permit but admitted there would still be a cohort for whom this would not be applicable. For this cohort, the Home Office states, "*we are considering how best to facilitate their return to the UK where they can make their EUSS application and will be happy to update you further when we are able to do so.*" We have not received an update on this since 1 July 2022.
60. For example, a lawyer contacted us about a non-EU citizen who was previously resident in the UK as a durable partner of an EEA national. He acquired permanent residence on this basis in 2013, evidenced by a sticker in his passport rather than receiving a BRC. He had not applied to the EUSS as he had mistakenly thought his PR was sufficient. He left the UK in 2020 and is unable to return as he is not eligible to apply for an EUSS Family Permit because he is neither in a continuing relationship with his partner, nor has he a retained right of residence based on a divorce or bereavement of a partner. The lawyer reported:

*"He was unaware he had to apply for EUSS as he thought his Permanent Residence card was ILR. He left the UK at the beginning of the pandemic and was unable to return due to the travel restrictions. By the time he got in touch he was unable to use his permanent residence card to fly back as it was no longer valid. We have been in touch with the Home Office but so far over four months later they have not been able to offer a solution. He is unable to resume life and work in the UK. He is literally stuck overseas with no option to return." – January 2022*

- 61. Policy and process change should be sought such that anyone who has rights under the Withdrawal Agreement to live and work in the UK is able to make an application from abroad or travel to the UK, even if they do not have the required documentation to use the EUSS or EUSS family permit application process.**

## 2.7 Durable partners – enforced six-month break of continuity of residence

62. The Withdrawal Agreement protects broadly three types of family relationships which can be summarised as follows:

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<sup>35</sup> the3million and Home Office (2022) - [10](#)

- ‘Family members’ as defined in Article 2 of Directive 2004/38: Spouse and registered partners, direct descendants (e.g. children, grandchildren) where under 21 or dependant, dependent direct relatives in the ascending line (e.g. parents, grandparents)
  - ‘Other family members’, as described in Article 3(2)(a) of Directive 2004/38: other types of family members (e.g. siblings, cousins and others) who are dependants or members of the household, or requiring personal care of the sponsor
  - Durable partners, as described in Article 3(2)(b) of Directive 2004/38: a partner with whom the sponsor has a durable relationship.
63. ‘Family members’ are not time restricted as to when they can apply, so long as they fulfil certain eligibility criteria such as the relationship existing before 31 December 2020 or being a new family member in the sense of a being born or adopted after 31 December 2020.
64. ‘Other family members’ and durable partners needed to have had their residence facilitated, or applied to have their residence facilitated, before the end of the transition period (Articles 10(2) and 10(3) of the WA). The UK’s implementation of this means people needed to have, or have applied for, an EEA residence card before 31 December 2020.
65. However, Article 10(4) sets out a provision that durable partners may also apply at a later date if they were outside the UK before the end of the transition period (as long as their relationship was durable before the end of the transition period and continues at time of application).
66. The UK’s interpretation of Articles 10(2) – 10(4) has a tragic policy consequence that unnecessarily tears families apart for likely over a year. This arises where durable partners did not have leave to remain, and did not have, or had not applied for, an EEA residence card before the end of the transition period (for a variety of reasons including planned weddings being cancelled due to COVID restrictions) despite being otherwise eligible as a durable partner.
67. This cohort is now instructed that they must leave the UK for a minimum six months – so as to break their continuity of residence – before applying for an EUSS Family Permit. Given the delays described above in the EUSS Family Permit decision making, this means that such durable partnerships are likely to be split apart for upwards of a year. The UK-based member of the partnership may well have pre-settled status and be at risk of breaking their own continuity of residence if they leave the UK for prolonged periods. If small children are involved, this extended family separation is all the more disproportionate.

68. the3million wrote to the Home Office about this, together with ILPA, in January 2022 and received a reply in February 2022<sup>36</sup> which confirmed the Home Office intention of family separation in these cases: *“As you note, the person will need to break the continuity of their residence here by leaving the UK for more than six months. They will then be able to apply to the EUSS from overseas (where eligible to do so) or in the UK (by returning here via an EUSS family permit) as a joining family member of their EEA citizen sponsor, where the sponsor has obtained status under the EUSS. This places them in an equivalent position to those durable partners of EEA citizens resident in the UK before the end of the transition period who were outside the UK at that point. It also means they are not advantaged by having chosen to remain in the UK without a lawful basis of stay before the end of the transition period.”*
69. We would argue that forcing someone to leave their partner/children for over a year does not place them *“in an equivalent position to those durable partners of EEA citizens resident in the UK before the end of the transition period who were outside the UK at that point”*, as those other citizens would not have had a long separation imposed on them by UK Government policy.
70. The Home Office is irrationally using the definition of ‘continuity of residence’ against people. Instead of ‘continuity of residence’ being a construct which safeguards someone’s rights, it is here interpreted as a liability or contract which needs to be broken and can only be broken by six full months out of the country.
- 71. *Policy process should be sought such that it is not necessary for certain family members to leave the UK for six months in order to ‘break’ continuity of residence, rather people should be able to simply choose their moment of the start of their claimed continuity of residence.***

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<sup>36</sup> the3million, ILPA, Here for Good and Home Office (2022) - [7](#)



## Chapter 3. Those in the UK with a pending EUSS application

### 3.1 Summary

72. Joining family members who have applied directly to the EUSS from abroad and are waiting for a decision are not able to travel to, or enter, the UK. We consider this to be in breach of Article 18(3) of the Withdrawal Agreement, which states that “*all rights provided for in this Part*” (therefore including the Article 14 “*Right of exit and of entry*”) should be deemed to apply to applicant. Article 14(3) provides for those who need an entry visa, and the Home Office has made clear to us in correspondence that they require *all* nationals to effectively have an entry visa, not just *visa* nationals. The only groups who can apply directly to the EUSS from abroad are EEA/Swiss citizens and those that were previously granted UK issued EEA documentation. The former group are not UK visa nationals<sup>37</sup> and the latter group were previously known to the UK Government. (See section 3.2).
73. Joining family members who have applied directly to the EUSS from inside the UK (following a concession<sup>38</sup> allowing those already in the UK as visitors to make an application) are trapped in the UK unable to travel. This is because they will not have the required documentation to be able to return to the UK.
74. Visa-national joining family members who were granted an EUSS Family Permit before going on to apply to the EUSS from within the UK, and whose EUSS Family Permit is now expired due to delays in the EUSS decision making, are trapped in the UK unable to travel. This is because even though an expired EUSS Family Permit will allow entry at the UK border, the UK Government instructs carriers not to accept an expired EUSS Family Permit for boarding.
75. Many of the problems set out in this section relate to delays at many stages of the EUSS and EUSS Family Permit process, which were also raised in our report to the IMA of November 2021<sup>39</sup>.

### 3.2 Who can enter the UK with a pending EUSS application

76. The Government website has guidance on ‘Entering the UK under the EU Settlement Scheme and EU Settlement Scheme family permit’<sup>40</sup>. These pages state that the following people can enter the UK with a pending EUSS application:
- **EEA/Swiss citizens who were living in the UK by 31 December 2020**, who have a Certificate of Application. If they applied after 30 June 2021, they may also need to evidence that they were living in the UK by 31 December 2020.
  - **EEA/Swiss citizens who were not living in the UK by 31 December 2020, but are joining family members** – but only if they have an EUSS Family Permit (*which they would not ordinarily have needed to apply for, being EEA/Swiss citizens*), a UK issued biometric residence card (*which are not issued to EEA/Swiss citizens*), or an EEA family permit (*which are not generally issued to EEA/Swiss citizens*)

<sup>37</sup> Gov.UK Guidance (2022) - [67](#)

<sup>38</sup> Gov.UK Policy paper (2021) - [40](#)

<sup>39</sup> the3million (2021) - [14](#)

<sup>40</sup> Gov.UK Guidance (2022) - [60](#)

- **Non-EEA/Swiss citizens who were living in the UK by 31 December 2020** - but only if they have a biometric residence card, EUSS Family Permit, EEA family permit or proof of relationship to EEA/Swiss sponsor. In addition, if they applied after 30 June 2021, they may also need to evidence that they were living in the UK by 31 December 2020.
  - **Non-EEA/Swiss citizens who were not living in the UK by 31 December 2020, but are joining family members** – but only if they have an EUSS Family Permit or a UK issued biometric residence card.
77. This means that, discounting those who already have applied for, waited and been granted an EUSS Family Permit, in practice only the following people can enter the UK with a pending EUSS application:
- **EEA/Swiss citizens who were living in the UK by 31 December 2020**, who have a Certificate of Application. If they applied after 30 June 2021, they may also need to evidence that they were living in the UK by 31 December 2020.
  - **Non-EEA/Swiss citizens who were living in the UK by 31 December 2020** - but only if they have a UK issued EEA document or proof of relationship to EEA/Swiss sponsor. In addition, if they applied after 30 June 2021, they may also need to evidence that they were living in the UK by 31 December 2020.
  - **Non-EEA/Swiss citizens who were not living in the UK by 31 December 2020, but are joining family members** – if they have a UK issued biometric residence card (in which case they are not ‘first-time’ joining family members)
78. The clear problems with the above are firstly the complexity of the rules around who can and who cannot enter with a pending EUSS application, and secondly the fact that EEA/Swiss joining family members who applied directly to the EUSS are not allowed to enter the UK to join their sponsor.
79. In the same letter referred to earlier, we wrote<sup>41</sup> to the Government on 15<sup>th</sup> April 2022 questioning this policy on EEA/Swiss joining family members, and their response<sup>42</sup> merely states that the Government has been generous in allowing applications by certain people from outside the UK. This does not address the question posed which is why EEA/Swiss citizens are effectively treated as visa nationals as soon as they apply for status under the EUSS, whereas their compatriots can simply enter the UK as visitors.
80. A further complication is that some people have the right to enter the UK (e.g. visa nationals with an expired EEA document, or an expired EUSS Family Permit for example), but do not have the right to board a flight, rendering the right to enter the UK meaningless.

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<sup>41</sup> the3million and Home Office (2022) - [9](#)

<sup>42</sup> Q3 on page 2, letter of 19 August 2022, the3million and Home Office (2022) - [9](#)

81. This is rooted in the fact that the S40 Charging Guidance<sup>43</sup> states clearly that Certificates of Application have no value for boarding carriers: “*Visa nationals who have a valid pending application to the EU Settlement Scheme are advised not to travel to the UK until their application is granted unless they hold a valid visa or visa exemption document. A Certificate of Application or Acknowledgement of Application is not satisfactory evidence of status.*”

### 3.3 Those with a right to enter the UK

82. Even for those who should have the right to enter the UK by having been resident before 31 December 2020, delays in issuing Certificates of Application prevents their travel:

*“My problem is not having received a CoA six weeks after having submitted the application. Earlier today I called the EU resolution centre; a caseworker told me that for people who applied late the CoA will not be sent until shortly before receiving a decision. What even is the purpose of sending a CoA at that point? [...] Additionally, it is causing uncertainty about whether or not I should travel home for Christmas as I am unsure whether I will be able to enter back into the UK.” – November 2021*

*“I had to make a paper application because my current ID card was lost some time ago and the replacement was not (and is still not) ready with my embassy. It was 2.5 months when I made that application. I've had no news since. The impact is that I have no way of knowing when I'll be able to travel without risk, for one. I live in the UK but I'm a freelance and most of my clients are in the EU, I already am sure to miss one of my biggest contracts in October if I don't have a CLEAR document that allows me to show that I can then RETURN to live here. I've had 2 friends blocked at the border and "detained" for hours, I'm not taking that chance. I'm extremely stressed every day about not knowing.” – September 2021*

83. Paper applications create a further complication by delays in the return of identity documents, which traps people in the UK, unable to travel even though they should have the right to do so.

*“They have all my documents. I can't change jobs or travel to see my family.” – January 2022*

*“My ID card is with the Home Office since June. I can't ID myself. My daughter has the same issue. We're meant to travel to see family, but we can't do that either” – December 2021*

*“In June 2021 my wife applied for pre-settled status with paper form as application, sending in her valid BRP. It is now 5 months past the date of application. We have received no CoA, cannot prove status online and don't have her BRP. We need to travel and don't have her BRP and apparently can't get an emergency BRP.” – November 2021*

84. Even with online applications, many are asked to send identity documents to the Home Office if the EU Exit: ID Document Check app cannot scan the identity document. This can affect children whose ID is not biometric<sup>44</sup>:

*“My son who is 7 years old is still waiting for his application decision. We were asked to send his ID card two months ago, but still don't have document back or any confirmation that Home office has received it. There is no mention on government website on waiting times and when should we expect decision and return of document. My son does not have any other document for travel abroad which we have planned in October. We are worried that there is no guarantee that he will be let in the country if he still doesn't have response.” – August 2021*

<sup>43</sup> Gov.UK Guidance (2022) - [61](#)

<sup>44</sup> For example, Germany ‘children’s passports’: German Missions in the United States (2022) - [90](#), and Poland only long-term passports for over 13s contain chip: Poland in the UK (2022) - [91](#)

85. We have heard reports from Surinder Singh applications where not only the applicant was unable to travel because BRCs were retained, but the British sponsor was also left unable to travel because their passport was retained:

*“Surinder Singh case, living in the UK for 6 years, previously accepted and family permit issued. Forced to apply by post. 4 months, still not even a CoA. Wife’s biometric card and husband’s passport submitted with application. On request for information, semi-automated response claims that CoA is issued when identity has been proven.... Unsure how an application for somebody providing a Home Office issued biometric card can take 4+ months to simply confirm identity. Wife unable to travel. Husband unable to travel.” – November 2021*

86. **Process change should be sought such that there is a clear service standard for the return of passports, identity cards and biometric cards to people who need to send these identity documents to the Home Office as part of their EUSS application. This service standard should be a matter of days. Failure to do so would be a breach of Article 18(3) specifically regarding applicants’ rights of entry to the UK under Article 14.**

87. Non-EU family members can travel with expired EUSS or EEA Family Permits, if they are not on the UK visa national list. This is because they do not have to show a visa to a carrier, and expired Family Permits are valid for entry at the UK border. However, they face questioning every time they return to the UK. We received a report from someone whose situation was exacerbated by having applied for Administrative Review, which was advertised at the start of the scheme to take 28 days, and at time of writing is advertised to take 12 months or more<sup>45</sup>:

*“In May 2021 I was granted an EEA Family Permit to join my partner in England. Within a fortnight I travelled to London, and on the same day I applied for the pre-settled status. My PSS was denied on in August 2021, based on eligibility grounds saying I did not have a Family Permit in my name. The following day, I applied for an Administrative Review since I have my Family Permit in my passport and since my application to the PSS was before it expired (30.06.21). I have waiting for the outcome for 9 months. Since my immigration status is still pending, and since I have to travel a lot for work, when I return to England I always get stopped to check my status.” – May 2022,*

88. It is important to highlight that, due to confused communication alongside stories in the media and on social media of people unable to travel back to the UK, even those who have the right to travel often think they do not. As a reminder, the EUSS travel guidance<sup>46</sup>, which includes guidance about who can and cannot travel with a pending application, was only published on 24 January 2022. We have received many reports of people desperate about, among other issues, the inability to travel:

*“It’s urgent please help me!!!! I have applied for pre-settled status 5 months ago. But I haven’t received it yet. I emailed EU Settlement Resolution Centre every month, but I didn’t get any response from them. All the time they said your application is under consideration. When I call them, they put my call on waiting for hours & after waiting for hours no one talk to me on call. My university application and student finance application cannot be accepted without pre-settled status. I need to travel abroad for a serious medical illness. But without pre-settled status I won’t be able to return back after 30 of June to carry on with my study. My whole study future is at risk. Please help me. I am so depressed because of EU Settlement Resolution Centre bad attitude towards me. Student finance said to me that we can’t process your application without pre-settled status. I am so depressed. Please help me to solve this issue.” – June 2021*

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<sup>45</sup> Gov.UK Guidance (2022) - [57](#)

<sup>46</sup> Gov.UK Guidance (2022) - [60](#)

89. The ability to travel is not only dependent on whether the UK allows people to board a carrier and enter the UK. For many people it is also dependent on getting a visa to travel to the destination country, which can be hindered by not having a granted residence status. This report describes such as case, as well as having to wait for over six months before their passport was returned, and incorrect advice from the EU Settlement Resolution Centre implying that a valid passport and EEA Family Permit would not allow someone to travel back the UK:

*"I submitted an application for pre-settled status in June 2021. Since then I have received no further correspondence (email or other communication). I contacted Resolution Centre by phone and via the online form several times during the 6 months period and always got a response that the case worker is working on my case. After my application was outstanding for more than 6 months I contacted the Resolution Centre again and expressed my concerns. The following day my passport was returned to me together with a Certificate of Application. [...] In 2018 I was granted a 5 year EEA Residence card of a family member of a Union Citizen valid until March 2023. [...] In a few days it will be 7 months since I have submitted my application and I still have not received a decision. Lack of status outcome and uncertainty has a significant impact on my life, not only mentally, but it also restricts me from traveling, seeing my family abroad, and exchanging an expiring driving license. As a foreigner, most of my family live abroad and I am unable to see them and even make any travel plans as the Resolution Centre strongly does not recommend traveling until the status is granted. We had to cancel family vacations last summer, my children haven't seen their grandparents for 2 years already. I have recently become an aunt and in order to see my brother and his newborn daughter I have to travel and apply for an Irish visa which I can't do without a residence status in the country that I apply from." – January 2022*

### 3.4 Those who lose their right to travel through Home Office delays

90. People with an EUSS Family Permit who then travelled to the UK and submitted an application to the EUSS lose their right to travel when their Family Permit expires after six months.

*"We made the application, then the biometrics and so far we have not received an answer, my EUSS Family Permit visa expires in seven days. We are literally trapped inside the country, we can't travel, I can't get a job because everyone asks me to check my status, I'm afraid of having to use the NHS and having to pay, among many other things." – September 2021*

*"Tomorrow we go in the 10th month and no news yet from the Home Office regarding my wife's pre-settled application. Last year my wife received the EUSS Family Permit Entry Visa after 15 months instead of 15 days and only after a tribunal hearing. I contacted my MP last month and the Home Office told him that my wife will receive a decision within 4 weeks and the case is now in its final security checks, but nothing happened. Now, is not about security checks anymore, because nothing changed in the one day, from her arrival in the UK to the following day when she applied for pre-settled. They can't tell me about security checks again when they ran these security checks for 15 months with the entry visa application. My wife is pregnant, she would like to travel to see her family but cannot because her EUSS Family Permit has expired." – February 2022*

*"I submitted a paper application for Settled Status on my wife's behalf 6.5 months ago and we are still waiting for a decision. I contacted my MP and they have written to the Home Office a few times and they got no reply from them. When I call the EU settlement helpline to query progress of the application and reason for the delay they cut the call. They returned my wife's residence card after MP intervened but nothing about the delay or when we can expect a decision. I read online one person stating their application took 1 years and 1 month. This will cause issues as we plan to travel later this year. This amount of delay is unacceptable for a scheme that was setup to process applications quickly in order to give people certainty about their status." – May 2022*

91. Equally, visa nationals who have applied to the EUSS with a UK-issued BRC lose their rights to travel when that BRC expires. At the same time, they are unable to apply for a new BRC until they receive a decision:

*“EU Settlement application was made before end of June 2021. No decision yet. Biometric Residence Card expires next month but we cannot apply for new BRC until EU Settlement decision received. Unsure if we can travel safely to/from UK thereafter.” – April 2022*

*“I am a family member of an EU national, and I have applied for pre-settled Status on 4 months ago. My UK residence card, issued upon my arrival in 2019, expires on June 30th of this year (it was issued for 2 years instead of the usual 5 because of Brexit). After that date, I will have no legal document proving my status in the UK. I have no complicating circumstances associated with my application - no criminal record, both my partner and I are employed in the UK full time, and I have submitted extensive paperwork to prove my family status both with this pre-settled application and with the previous one in 2019. I tried calling the UK Settlement Resolution Centre, but the phone lines are replaying an automated message with no one to speak to. I also used the online contact form but heard nothing that way either, even though they promise to reply within 5 days, it has now been 2 weeks. When my current residency card expires, I will have no way to leave and return to the UK or prove my status while living here. This is severely undermining my freedom of movement, and it's particularly heartbreaking since I haven't been able to travel to see my family for almost two years because of COVID and now I can't do that because the UK government is unable to stick to its deadlines.” – June 2021*

92. **Policy change should be sought such that any visa nationals currently in the UK with a pending in-country EUSS application should be able to freely leave and re-enter the UK, even if their visitor visa, EUSS family permit or other leave to enter the UK has expired while waiting for the Home Office to make a decision on their EUSS application.**

### 3.5 Those without a right to travel

93. Unless someone lived in the UK before 31 December 2020, or they have a valid EUSS Family Permit or valid UK-issued EEA document, they are not successfully able to both board a carrier and enter the UK with a pending EUSS application.

*“I applied for the EU Settlement Scheme last year. Two months later, I got my CoA and my passport back. However, I still don't have a pre-settled status after more than 6 months. I am stuck in Scotland. I am unable to leave, as I have been told that if I leave, to go home for instance, I might not be guaranteed entry back in the UK as a decision is still pending. I haven't seen my family in 7 months. My father had a medical emergency, and I was unable to travel home back in December.” – May 2022*

94. Extreme delays in decision making mean people have to miss funerals and are unable to travel. This will also have an impact on people's ability to do their jobs if their employer requires them to travel. The following case was reported to us in May 2022 from someone who was both waiting on a decision and was unable to see their CoA online and create share codes. At time of writing, October 2022, he had still not been granted status and was still not able to generate share codes despite repeated expedition requests from his lawyer:

*“I can't find work. Everywhere I go they ask for share code or status. There is error to obtain from first day I got paper CoA. I keep telling to Home Office. I also can't travel anywhere my dad passed away in December I keep telling to them they still making delay. It's stressing me out. It's nearly one year they not making decisions on my application. I have two kids and partner we can't even go to holiday I can't find any job as I have no status. They not even helping me to sort my share code link” – May 2022*

95. The inability to travel not only results in families being unable to see each other, but also lost job opportunities:

*"I am an EU citizen, I arrived in June (with no Family Permit, as those were not required then), and promptly applied for pre-settlement. There was no visible progress, until I sent a complaint to public.inquiries in December. Following that complaint, I have now received a COA and my passport back (no other key documents returned). I have had to turn down opportunities work (EU clients). I have been unable to visit family (some of whom are unable to travel because of health problems). The COA that I recently received states that without a Family Permit I should not leave the country, as I may not get back in." – January 2022*

**96. Policy change should be sought such that any non-visa nationals currently in the UK with a pending in-country EUSS application should be able to freely leave and re-enter the UK. Failure to do so would be a breach of Article 18(3).**

**97. These policy changes should be accompanied by clear guidance to carriers, and a clear mechanism whereby people with pending EUSS applications can prove their entitlement to travel to the UK, even in the event of delays to the issuing of Certificates of Application.**

### 3.6 Those who travelled abroad but are unable to come home

98. For visa nationals who were resident in the UK before 31 December 2020 and who have pending EUSS status (without having needed to apply for an EUSS Family Permit), their BRC serves as their document allowing them to travel home. In the case of this being lost or stolen while abroad, they will not be able to travel home even if the airline was willing to accept digital status. This is because they don't yet have status, and Certificates of Application are not accepted.

99. We have received reports from people in this period who have been stuck abroad for extended periods, because they are not able to apply for an EUSS travel permit<sup>47</sup> while their EUSS application is still pending.

*"My husband is a visa national, and he applied for the EUSS at the end of 2019. He received a COA but he is still waiting to receive an answer over two years later. My husband had a BRC card for being married to me, an EU citizen. Last year I went on holiday with my husband and our two little kids and he lost his BRC card there. We really didn't know that it would be a big problem for him to be back. They told us that he had to apply for a family permit. My husband applied for a family permit, and he still hasn't received it. I had to come back to the UK with my kids because I had to go back to work. My kids haven't seen their dad in almost 4 months and this is really heartbreaking as they are just 3 and 2 years old. The oldest one is very attached to him." – February 2022*

**100. Policy changes should be sought such that those with pending EUSS applications, whose biometric residence card is lost, stolen or expired, are able to apply for EUSS Travel Permits from abroad, and replacement BRCs when in the UK. This process should result in decisions being made on an accelerate basis.**

101. Some people consider that they simply have no choice but to travel, regardless of having to suffer consequences of not being able to return due to Home Office delays:

*"It was a long and stressful wait to get the COA. And now my mum has it, but we are still waiting for her decision on pre-settled status. We had no clarification if she was able to travel. My mum had to return to South Africa as my grandmother died. Now my mum cannot come back to the UK until she has her pre-settled status as she has no entry visa. She is living in uncertainty. Also worried if they need more documentation and she isn't in the country." – October 2021*

<sup>47</sup> Gov.UK (2022) - [47](#)

102. We have also had reports from people who made every effort to check whether they could return to the UK before making travel arrangements but are now stuck abroad. For example, one solicitor reported the following case:

*"The client applied to the EUSS and received a CoA stating among other things that he can travel. In January 2022 he contacted a Border force officer by email to verify whether he can travel. He was asked to forward his CoA and on later in January the officer responded that "This will be adequate to travel as you will have saved rights as long as you have previously lived in the UK". On this basis he travelled to [country] in February 2022. He sought to board for re-entry two weeks later and the carrier refused to carry advising that he needs to get 'clearance' from Home Office / Embassy to travel. He attended the UK High commission in [country] and was not given any information. He emailed the border officer and has not received any response. He spoke to the EUSS resolution centre and was told to seek legal advice as there is nothing they can do." – September 2022*

103. Others travelled because they did not realise they could not travel with a pending EUSS application, since information was confusing at best. This respondent was left stranded abroad, unable to turn up at his employment, and separated from his family, even though he is an EU citizen, therefore not a visa national, and even though he is protected by Article 18(3) of the Withdrawal Agreement.

*"Returning to the UK with a Certificate of Application, as a joining family member. He is [EU], lives in the UK with his wife and children. His wife is [EU] with PSS. Both work in the UK. He went on a short trip to France and upon attempting to go through UK border control at the Calais border to return to the UK he was denied entry. He was told this was on the basis that there is small print on the CoA saying travel as a joining family member is "strongly discouraged" and re entry "may be refused". He was separated from his phone and passport at the border for some time. Now he has been told he has to stay in France until he has PSS and he should contact the EUSS hotline in the hope they fast track his application. In the meantime he can't return to work or to his family in the UK." – January 2022*

104. A recent case reported in the media<sup>48</sup> shows the absurdity of turning a non-visa national into a visa-national simply because they have a pending application. A Polish citizen is split from his family for over six months and is unable to perform his job in the UK, whereas a Polish compatriot *without* a pending EUSS application would be able to visit the UK without any formalities. He is being penalised for making an application, and effectively held prisoner in the UK while the Home Office take months to decide his application.

*"Maciej Szulczynski, 49, has been waiting months for confirmation his EU Settlement Scheme (EUSS) application has been successful, and having returned to Poland for a holiday was barred from returning to the UK." "on leaving the country temporarily in April he was told on return by border officials he can't come back at all until the final decision on his status is made." "Having travelled through the Channel Tunnel on May 5, the dad-of-four was stopped and taken to a holding cell after realising his settlement status was pending." "Six months on, the 49-year-old is now waiting in limbo in his country of birth and struggling for money having had to forgo a major construction contract in the UK." "When he was checking his settlement status before he left, on the first page it says you can come and go, you can work, you don't need any special reason." – October 2022, Mirror.co.uk*

- 105. Even in the absence of wider policy changes to allow free travel for those with pending EUSS applications, the Government must ensure that anyone stuck abroad after having left the UK with a pending EUSS application is assisted to return to the UK immediately.**

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<sup>48</sup> Mirror (2022) - [99](#)



## Chapter 4. Those with status under the EUSS

### 4.1 Summary

106. This chapter describes the problems faced by those who have successfully completed the journey to obtaining status under the EU Settlement Scheme, are protected by the Withdrawal Agreements, but are nevertheless facing problems when exercising their right to leave and re-enter the UK.
107. Due to the number of problems reported to us by this cohort, the chapter is divided into sections according to the hypothetical physical round-trip undertaken by travellers:
- Planning the trip – anxieties leading many to decide not to travel
  - Planning the trip – barriers making it impossible to travel
  - In the UK, check-in process to leave the UK
  - Abroad, returning to the UK – check-in process
  - Abroad, returning to the UK – facing non-UK border control
  - Abroad, returning to the UK – facing UK juxtaposed border control
  - Abroad, returning to the UK – at the boarding gate
  - Entering the UK – using the eGates
  - Entering the UK – facing Border Force officers
108. Many of the concerns facing holders of EUSS status are centred on the fact that EEA/Swiss citizens can **only** rely on their digital-only status, whereas their non-EEA/Swiss family members are ironically not **able** to use the fact that they have a digital status alongside a biometric residence card.
109. The problems range from the UK Government’s lack of clear communication to carriers to ambiguous and contradictory UK policy and guidance. Problems are caused by the inherent problems around proving a digital status which is not in the form of a digital token held by the passenger, able to be printed off as a backup. Problems are vastly exacerbated by problems around the maintenance of the digital status, and the length of time it takes for problems to be fixed by the Home Office’s resolution centre.
110. The fact that this is by a long distance the longest chapter in this report reflects the wide variety of travel problems faced by people who have a valid UK immigration status, as well as the incidence of such travel problems.
111. These problems, for people with a valid UK residence status, should serve as an extremely loud warning of the chaos to come once the Government implements its planned changes in the very near future (see Chapter 5). It is extremely disappointing that the Government has not wished to engage substantively and in good faith with the3million’s proposal for a complementary implementation of digital status<sup>49</sup>.

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<sup>49</sup> the3million and Home Office (2021-2022) - 4

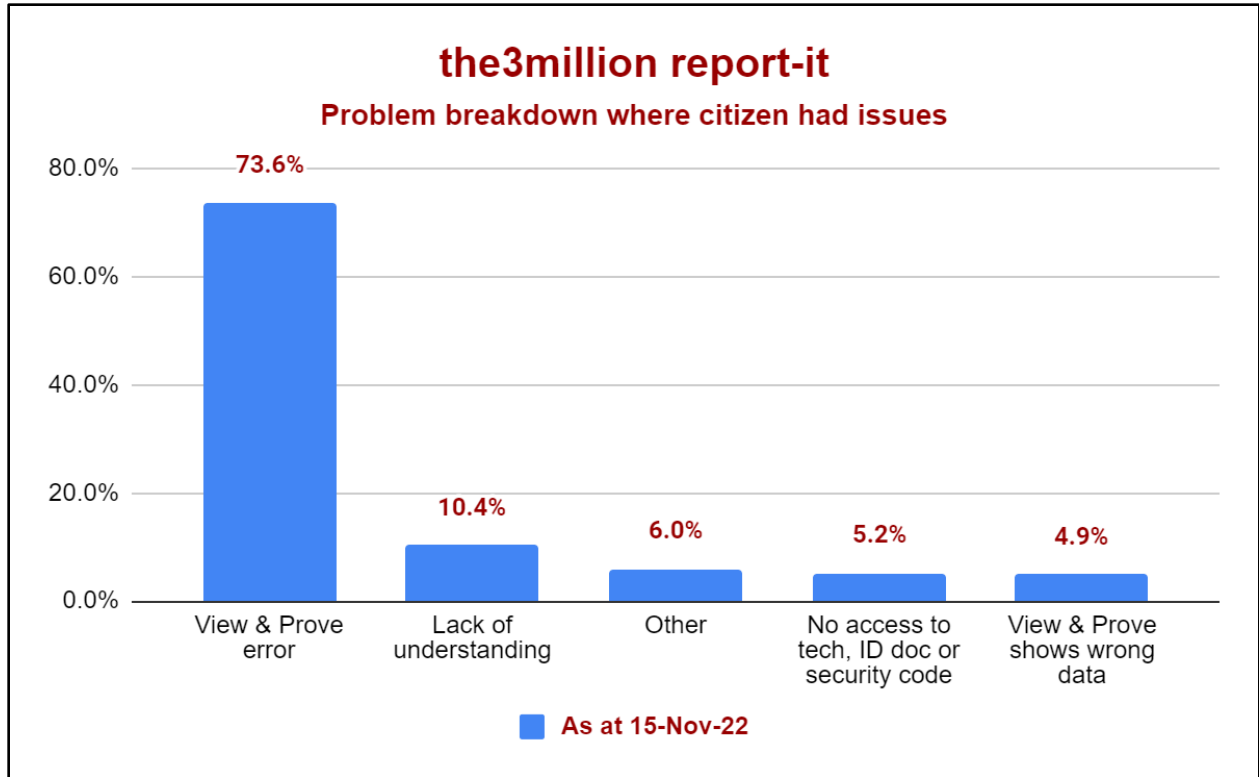
112. People who have faced issues are struggling to get any compensation from carriers. For example, this passenger was made to prove his immigration status to Ryanair, which he was unable to do at the time via View & Prove due to technical issues. He eventually found the original EUSS decision email which enabled him to board, but he felt it was unreasonable that he would have been denied boarding had he been unable to access an email from several years prior. He subsequently made a complaint to Ryanair but all he eventually received was the following, which clearly implies that Ryanair considers proof of immigration status a “required document”, and which does not even correctly pertain to his situation as he was not actually refused boarding:

*“It is up to each customer to ensure that they have valid travel documents which meet the requirements of Ryanair, immigration and other authorities at every destination. According to our records, you showed up without the required documents, therefore the staff had no other choice than refuse you from the flight. Due to the above, I regret to advise that no refund or compensation is due. If you are not satisfied with the outcome of your complaint, you may be able to refer your complaint to AviationADR (previously known as The Retail Ombudsman) within 12 months of our final response for a review. AviationADR is an independent and impartial airline dispute resolution scheme approved by the Civil Aviation Authority.” - November 2022*

- 113. Article 14 of the Withdrawal Agreement clearly protects the right to “leave the host State and the right to enter it”. People who have suffered loss through being unable to travel have rights not only under the Withdrawal Agreement but also have consumer rights under the Denied Boarding Regulation. However, it appears that neither the Government nor the carriers have been forthcoming with compensation or restitution. The IMA should investigate the Government’s obligations in facilitating a compensation scheme.**

#### 4.2 Planning a trip – concerns about travelling related to the EUSS

114. For those with status under the EUSS, problems reported to us fall into two main categories, namely anxiety around travelling, and barriers that actually prevent travelling. This section analysis the various types of concern that are felt which mean many are too worried to travel.
115. 59% of all the reports received via our REPORT-IT-DIGITALSTATUS relate to a situation where the status holder had a problem accessing or maintaining their digital status. These break down into broad categories as follows:



116. Almost three quarters of the reports where the status holder had a problem accessing or maintaining their digital status tell us that they encounter an error. Some receive an error as soon as they try to log in, for example: “The details entered don’t match our records”, “There is a problem with this service”, “We cannot find your status”, “You are already logged in”, “Service currently unavailable” and others. Others can only log in with an old identity document, despite being told that the update of their UKVI account has been completed. Still others can log in and view their status, but then receive an error when trying to generate a share code.

*“I’m trying to check my status via <https://www.gov.uk/view-prove-immigration-status>. I’ve had Settled Status since January 2020 and I had never had issues with checking it online. I even updated my passport details a few months ago and everything went well. So this is the first time I have a problem. I’ve been trying for 30 minutes or so. About 20 minutes ago or so I clicked on the ‘Start now’ button, and I went through the usual stages of typing my passport number and date of birth. I did receive the usual code via text message, but when I entered it in the box the website froze for like 5 minutes, and then it eventually showed me a message saying ‘You are already logged in’, but it wouldn’t show me my status. Then the website didn’t load at all. I tried a few minutes later and had to go through <https://www.gov.uk/view-prove-immigration-status> again, from the beginning. This time, when I clicked on ‘Start now’ the website doesn’t load, and after a few more minutes I got an error message saying ‘There’s a problem with this service at the moment. Try again later.’ Whereas I understand that websites crash at times this is precisely why we need physical proof of status. It’s really scary. If I were at an airport and needed to show proof of my status and the service would have been down as it seems now, what would I have done?” – May 2021*

117. There is another group (almost 5% of those reports where the status holder had a problem accessing or maintaining their digital status) where people can log in to View & Prove, but the displayed information is not appropriate or sufficient. For example, the photo is missing<sup>50</sup>, or the wrong status was shown from multiple applications, or the details shown did not belong to them (entangled status<sup>51</sup>).

118. For many people, not being able to view their status makes them sufficiently nervous to not attempt to travel, even for something as important as a family funeral.

*"My wife applied for and obtained settled status in 2019 or so - early on in the situation. In 2021 she tried to view to check before planning visit to her family in NL for a funeral. She could not find her status. She phoned. She was promised a call back in three weeks. That did not happen. She called again and was told that the problem had occurred because she had applied twice (nonsense). She called again after a month and no further progress had been made. Eventually she got an(other) email granting settled status - just like the first time. She looked online and it worked but she is very nervous to leave UK (she was too late for the funeral) in case she cannot get home!" – August 2022*

119. Many have told us how being unable to view their status makes them especially nervous to travel:

*"Concerns around IT systems not working / going down which would prevent me from accessing the information needed at the time I need it. Would like a physical document to prove status especially when travelling." – August 2022*

*"Yesterday for 1h45mns and this morning again I was unable to view my status. My screen was stuck on "you are already logged in" and nothing else could be done. The helpline couldn't help me after trying for one hour. They said they would phone me back. I'm extremely worried about being unable to prove my status to anybody or to re-enter the U.K. if I travelled abroad." – May 2022*

*"I went to the Gov website and filled in all forms. Then when I had to choose how to receive the 5 minute code the page hung and I couldn't get further. When I refreshed the page it just said that I already logged in but I couldn't see anything else. It causes me great anxiety. I can try again tomorrow but I travel regularly and what if it happens when entering the country?" – June 2021*

*"Tried to view status, got message "We cannot find your current status in this service. This is probably because your application is still in progress". The anxiety and uncertainty this is creating, for example when planning travel to see family, impacts negatively on my mental health." – October 2021*

120. Some reports express anger and frustration at the lack of at least a physical backup proof of their status, including in situations where they incorrectly receive frightening letters from the Home Office:

*"Lack of physical proof of EUSS causes anxiety as soon as I try planning for foreign travel. In result, I feel imprisoned. Crossing borders was never a pleasant experience for me, but the UK border force seem to be especially unhelpful. Physical proof should be part of the system, after all we all know what happened with Windrush people. I feel my anxiety caused by this is ruling my life and causes more stress than normal. It has left me unable to travel to the country of my birth to bury my mother's ashes according to her wishes " – August 2021*

*"This morning I received a letter from the home office that I will lose my rights in the UK within 28 days as I haven't applied to the EUSS. However, I have had settled status since 2019. I phoned the EUSS Resolution Centre who told me that I need to call the provided phone number, 0300 1050 888, however trying to reach them is impossible and the call gets dropped with a message saying ""we're experiencing a high volume of calls". The Resolution Centre also told me that they made an "error" and "a lot" of*

<sup>50</sup> the3million and Hongkongers in Britain (2022) - [16](#)

<sup>51</sup> the3million (2022) - [17](#)

*letters have been sent to people who already hold status. I am due to travel next week and am worried I'll have an issue coming back due to this and not sure what I can do. The EUSS Resolution Centre told me my status is linked to my passport, and I can view it online with no problem, but that letter is scaring me and it's making me angry that I can't reach the hotline. Furthermore, the letter is dated 9th of August, but I received it today, and no one can tell me when the 28 days start. I feel anxiety, mental health problems, anger at UK Gov." – August 2021*

121. We receive reports from those who, when logging in to View & Prove, get past the first login stage and receive a security code via email or SMS, but then permanently encounter an error after entering that security code. We have written to the Home Office about this in August<sup>52</sup> but at time of writing have not received a reply.

*"When I try to view and prove my status, I enter my passport details, I receive a security code by phone (or email), which the system retrieves from my passport data - so the system can clearly find me in the database. When I enter the security code, I receive the following error page: "There's a problem with this service at the moment. Try again later." I have tried this on about 5 different days spread over months, it has never worked. The website prompts me to call the UKVI contact centre. I have to enter my debit card details to proceed with the call. I have waited hours in the queue, but I have not been able to talk to an advisor. I am due to travel abroad soon and I am very nervous about not being able to come back home to the UK when I return." – August 2021*

122. The anxiety to plan travel is especially great for those who were able to view their status in the past, but now can't, as they feel they cannot have any trust that their status will be provable at the point of needing it.

*"I was granted Settled Status over two years ago, but today I tried to view my eVisa and got a message saying "We cannot find your current status in this service". This hinders my ability to travel and rent. Makes me feel deeply anxious and legally unsafe." – June 2021*

*"Father applied for settled status for an almost 1-year-old child. Status outcome came back with granted settled status in March 2021. But now when we are checking online - it shows no application at all and status cannot be checked. They are scared to travel abroad as cannot prove status online." – October 2021*

*"I received my EUSS in 2019. When I received this, I checked the view and proof website and was able to see my status without any issues. On Saturday I checked the view and proof site again prior to booking a trip to see my family abroad. This time I was able to log in but the site noted "status cannot be found - this is probable due to your application being ongoing. Please check again when you have received your decision." After a number of attempts I called the helpline and it appears there is a technical issue with my account. I also discovered in addition that I am currently unable to proof my status to my employer if I would need to. I will not be able to do so until this is fixed. A report has been sent to their technical team, however they could not provide me with a time frame in which this would be resolved." – April 2022*

123. In some cases, those who are unable to view their status are even told by the EU Settlement Resolution Centre that they should not travel.

*"For over 3 weeks I am not allowed to use, check update and login to my settled status. I try I don't know how many time contact with immigration office but they are also not sure how to help me and also they have problem to give me my share code when I asked . Last Friday they told me it's a technical problem, my status doesn't exist and they don't know what's happened. They told me I need to wait until someone resolves my problem. Their advice was that I am not allowed to go abroad right now because if*

<sup>52</sup> 'Incomplete portal set-up', the3million (2022) - [17](#)

*I go, I'm probably not allowed to come back in. I can't even describe – I'm destroyed I don't know what to do." – September 2022*

124. The same anxiety applies for those who can log in to View & Prove yet find their status is not showing correctly anymore, such as a missing photograph. We wrote to the Home Office about this corrupted status issue in May 2022<sup>53</sup>, but at time of writing have not received a reply.

*"I obtained Settled Status in December 2018, in the trial phase for Universities. The picture was ok until I noticed early in 2020 that had disappeared. I contacted the EU Settlement Resolution by phone and they told me that they will write to me with instruction when they will have sorted the technical issues. I contacted them again in writing in September 2020, they replied but nothing has been solved so far. I am anxious about having all my papers in order after Brexit. Especially since I will have to travel for work." – January 2021*

*"When I now check my status online and while all information is correct it won't display my picture, and says 'photo not available'. I contacted the EUSS Resolution Centre, and they said they would look into it. It's been a week and is still not fixed. It's clearly some IT glitch, because my photo used to be in my EUSS page---I couldn't have been granted EUSS without it! In lockdown I'm not really travelling anywhere but had I not randomly checked my status last week I would have probably only noticed when exiting or re-entering the country, which is far from ideal, and may have caused delays if not problems at the border. We'd be better off if we could also have a card or other physical proof of our EUSS. It has made me feel vulnerable, and it's still not solved. It also made me think that if a glitch causes your photo to disappear, could it also cause other details to be lost?" – February 2021*

125. Many reports centre on the problems of maintaining a digital status, specifically with successfully linking a renewed identity document to the digital status. This was extensively discussed in the fourth report to the IMA: "Challenges around maintenance of UKVI account" of 28<sup>th</sup> March 2022<sup>54</sup>. We therefore don't repeat all these concerns here, other than to summarise the different elements.

126. The IMA report ranged from those who are unaware of the need to maintain their digital status, through those who struggled to access the digital update process, to those who tried to perform the update yet encountered problems. These problems include delays, IT glitches and for many the demand to send their identity document to the Home Office by post. The report also highlights the problems when a UKVI account is affected by multiple applications for immigration status. Below are some recent reports that have continued to arrive since the publication of that report, starting with an example of a couple in their seventies:

*"My wife and I have settled status registered to our EU ID Card. When we came back from holiday we showed our passports, but the agent could not find us. Luckily we both had our EU ID with us. He said to update our settled status to include our passport details, but I, and several government workers have not been able to show me where to do that." April 2022*

*"I am 73 years old. partly sighted and hard of hearing. Furthermore I get no digital phone signals where I live. Fortunately when we applied, my son was with me and downloaded all my papers and photos, send them to the solicitors' firm and they applied on my behalf. Without them I would not have bothered. If I want to update my status with a new passport, my son and the solicitors' firm will have to help me. It is sheer hell. I have been, sadly, in this country for 50 years and still have in my possession every single police registration card (before the EEC), passports etc. This alone prove that a HARD PROOF of one's status is absolutely necessary. When I get to that stage and when I can see my status. I shall print it out*

<sup>53</sup> the3million and Hongkongers in Britain (2022) - [16](#)

<sup>54</sup> the3million (2022) - [15](#)

*and stick it on a card. I cannot bear the thought of an internet meltdown at an airport or a ferry and me caught and being threatened of being detained. This surely would give me a heart attack." – March 2022*

*"I have recently received my new French nationality passport, right in time for my trip abroad in three weeks' time. As I was just updating my settled status through the UK immigration website, it informed me that I am supposed to send my new identification to them by post. I cannot risk not getting my passport back on time and missing my trip. I did not have to send my passport when I initially applied for a settled status, nor when I had to update it last time as my previous passport was stolen abroad and I had to get an emergency one to come back to the UK. I am worried that I will either not be allowed to go on my trip, or come back from it, or both." – August 2022*

*"I have changed my name upon marriage. I lost my passport and got a new [EU] passport recently, which has my new name on it. I sent the passport to them in May - you can't update your name online - and they sent it back fairly quickly. However it's now been a month and my details on the settled status have still not updated. I want to travel in July and am worried it still won't be done by then. I can't take my old passport as it is lost. I have been trying to ring the hotline many times but it is always on hold. I have been given no time frame how long the update will take and can't speak to anyone. I think it's unacceptable that a simple update is taking this long. I've been in the UK since 2008 and I'm a teacher. It's vital I can return in time for the beginning in term and not be held up by this. My children haven't seen their grandparents in Germany in years due to COVID - one child hasn't been to Germany at all. I am worried we won't be able to travel this year either now. " – June 2022*

*"Filled out all required details and uploaded successfully new passport scan but when finalising the process with "submit request" got the message "sorry there is a problem with the service, details not saved, try again later." We will try again next week but we must travel in May." – April 2022*

127. An aspect of updating UKVI status that was not covered in our March 2022 report is the fact that many EU citizens renew their passports while abroad, which creates extra logistical worries because the process to link new identity documents to UKVI status is not instant – even when done online. For example, a college staff member reported to us about one of her A-level students:

*"One of my students went to [EU country] to renew her passport. On her way back in Gatwick, she was asked for passport and Settled Status, she showed them a screen shot of it, which was not accepted. She had to log in and go through the steps to get it. However, she was also asked for another proof of identity. Luckily her old passport had not expired yet, so she provided that. She was taken to a room and left there for at least half hour, they took her passports and phone to check. Then eventually she was allowed in. She also said that other girls like her were going through the same procedure. She was quite distressed and has told me she is scared to travel again in case they will not her in the country." – June 2022*

- 128. The maintenance of UKVI accounts with new identity documents must be radically improved, so updates are effective immediately, identity documents are not required to be sent through the post, and status holders can clearly see all identity documents that are linked to their account.**

### 4.3 Planning a trip – barriers preventing travelling

129. As mentioned earlier, delays to processing UKVI updates causes people a lot of stress when planning their travel. However, these delays can have knock-on effects such as on children’s passport applications which then form actual barriers to travel. The following two examples show two families unable to introduce their child to grandparents, still waiting for the Home Office after six months. The source of the problem in both cases is that the mother has changed their name through marriage, and this update has still not been applied. It is surprising that HM Passport Office, being part of the Home Office, is not able to verify this directly with the relevant EUSS department of the Home Office.

*“Last year I decided to change my name after getting married. My new [EU] passport arrived in December 2021. Immediately I wanted to make sure records were set straight with EUSS. I was required to send them the passport in post and received it back just fine only about 10 days later. I was told I would receive an email once my records have been updated but not given any timeline for this. About a month later I called them to enquire as I still had not heard and was informed this would take 12 weeks so should be done by mid April at the latest. It is now June and even after numerous calls with them confirming that everything is right with my documents my records still have not been updated. That means that they have a wrong name and wrong passport details on record for me making me unable to prove my status. This is causing a delay in applying for a British passport for my child as this is dependent on my settled status in the correct name. Therefore, it also means we cannot travel for my child to meet our families in [parents’ countries of origin] because we couldn’t be sure that we could re-enter the country.” – June 2022*

*“I married in 2020, I sent all required documents to the Home Office to update my name. I also applied for my son’s passport in May and sent all documents to the passport office. Passport office are claiming I am different person with different name as Home Office still did not update my details to my married surname and new passport! I am unable to travel as I cannot travel without my baby son as they are holding his [EU country] passport due to above. I cannot travel and my baby son cannot meet his grandparents, aunts etc. This is having major emotional impact on us as a family and causing significant distress knowing they cannot meet him whilst he is a baby” – July 2022*

130. For many people, the Home Office demands that they send their passports through the post, in order to update their UKVI account. This was covered extensively in our fourth report to the IMA, in the sections ‘Applicants prevented from using online update process despite no name change’, ‘Delays in return of identity document’ and ‘Lack of transparent process around return of identity document and update taking effect’. Obviously people are prevented from travelling when they don’t have their passport, and they are reluctant to post it because of the risk of loss and the lack of clarity as to how long they will be without it.

*“I was travelling back from [...] with my seven year old son. I was told at the border that the officer couldn’t find proof that I live in the UK. This is because I applied for my settled status with my old passport which is now expired. So if they put in my current passport number, they can’t find me (or my settled status) on the system. I did some research after coming back and to update this, I am required to send my passport to Liverpool which I don’t want to do as I am frequently travelling over the next six months and will need my passport. The officer kept me back for quite a while and reluctantly let me in eventually but I am frightened of my next trip and being detained as this is such a chaotic system. My mental health has suffered, I am so anxious about travelling and being detained.” – April 2022*

131. Other UK Government agents also demand passports to be sent in, leaving people feeling vulnerable.



*"I applied for Disability Living Allowance for my son. As I'm a European living in the UK I got asked to prove my eligibility. I phoned the Service and advised that I hold Settled status and that I can provide an online link to the Status. They insisted that I send the letter from the Home Office despite me pointing out it doesn't qualify as proof. I had to send in both my passport and the letter. The letter however got accepted by them. It makes things very complicated, also because I need my passport in order to travel as my mum is in long time care abroad." – May 2021*

**132. The UK Government should review all circumstances in which people are required to send their identity document by post. It should provide alternatives in each of these circumstances so that the identity document can be checked by technology or manually, but crucially without the person needing to be separated from their document. If checking manually, this service must be free and available at sufficient locations throughout the UK to prevent unreasonable travelling costs.**

133. Non-EU visa nationals with EUSS status are dependent on their Biometric Residence Cards [BRCs] to travel. The long delays in issuing replacement cards are trapping many people in the UK, denied their right to travel. This was mentioned in our November 2021 report to the IMA<sup>55</sup>. As reported in Right of Women's guide on Applying for a new BRC following a grant of status under the EUSS<sup>56</sup>, *"It is not unusual for it to take a number of months for an application for a replacement Biometric Residence Card to be processed once the application has been made and biometrics provided. If you are concerned about how long the application is taking, you can contact the Home Office Settlement Resolution Centre to enquire as to any reasons for the delay."* For as long as we have been receiving reports through our Report-It tool, people have reported the impact on their families of these delays.

*"My spouse is a Non-EU citizen with Pre-Settled status. Unfortunately her BRC was stolen. She applied for a new card in January 2020 and is still waiting for a new card to be issued under the new rules. Her mother (living outside the UK) is very ill and she does not know how long she will live. The PROBLEM is that if my wife leaves the UK to visit her mother without an ID Card/Residency Card, she will have a problem when trying to return to the UK. What many people fail to understand is that countries outside the EU always demand to see PROOF of the right to enter the UK before being allowed to board a flight from any airport. My wife is afraid to leave the UK knowing she will have a problem trying to return without any physical proof of her right to reside here in the UK." – December 2020*

*"My old Residence Card EEA family members has expired. I have Settled Status but cannot travel outside the EU without the card. I handed in the biometric data over a month ago and paid the high fee. Since then I have heard nothing and have not received a new card. Outside Europe, no one accepts the Settled Status slip or the Residence Status Code. I can't travel outside Europe and can't visit my family abroad." – September 2021*

134. The delays in receiving a BRC also has a knock-on effect on applying for visas, where embassies require a physical proof of residence from visa nationals.

*"As a non-EU family member, he was granted Settled Status. However, the BRC to prove his status has not arrived after the deadline. This caused problems applying for a visa, preventing him using his rights to travel. His visa application was refused and he could not travel to Europe." July 2021*

<sup>55</sup> Paragraph 88 the3million (2021) - [14](#)

<sup>56</sup> Rights of Women (2022) - [92](#)

- 135. While biometric cards are still essential for travel for non-EU nationals, the UK Government should be required to set a clear service standard for the replacement of biometric cards, which must be less than one month. Failure to do so denies the right to travel freely to non-EU family members with status under the EU Settlement scheme.**

#### 4.4 In the UK, check-in process to leave the UK

136. Theoretically, leaving the UK should not be impacted by a check on UK immigration status, because the right to enter the destination country should be the only matter of concern. However, a lack of training appears to be responsible for UK based airport staff to deny boarding to an EU citizen with settled status wanting to exercise their right to travel on their national identity card.

*“Last week I was denied boarding [to leave the UK from Scotland] with an ID card. They wanted to see a passport, but according to the law I can travel in and out of the UK/EU with an ID as long as I show proof of my settled status. The problem is that the UK government the only proof of settled status I am given is a share code and at the check-in at an airport they do not accept that. This means the airport breaks the law, but it also means that the UK government has not provided enough evidence of settled status to EU nationals. I phoned the UK Visas & Immigration Contact Centre three times. Once they told me I was right. The second time they told me I was not contacting the right Home Office number, which left me to wonder: if this contact centre can't help, then which one will? I was given some generic Home Office number, which directed me back to the UK Visas & Immigration Contact Centre. Phoning official bodies went in circles, it led nowhere. The third time I phoned, the line was too busy and I was not connected at all. Because I was denied boarding I lost several weeks' worth of holidays, all the cost of my flights, I have had to spend over 100 pounds on getting a passport which I did not need and over 130 pounds worth of travel and hotel expense to apply for a passport at the consulate, I experienced an immense amount of stress phoning countless of governmental bodies to find out why I was denied boarding. Phone calls with the airline, Home Office, my embassy, the local consulate, the airport etc etc led nowhere. None of them could deny I should have been allowed to board with an ID card with settled status, but nobody could tell me why the share code wasn't enough proof, or why the UK government does not provide more evidence to avoid situations like this. Due to Covid restrictions I have not seen my family for 3 years, and because of this ID card issue it is going to be even longer. I am also now not convinced that I won't face similar problems in future, for example buying a house in the UK. I also have lost faith in the embassy, border security, Home Office and other official bodies contacted.” June 2022*

#### 4.5 Abroad, returning to the UK – check-in process

137. By far the largest number of reports about travel problems relate to attempting to check in for the return trip to the UK. Problems include the following, and we will discuss each of these in turn.
- being unable to use online check-in, having to go to a check-in desk instead
  - being asked for proof of immigration status in the UK despite guidance that this should not be necessary for EEA/Swiss citizens
  - being asked for physical proof of residence in the UK for EEA/Swiss citizens
  - concerns around proving share codes in situations where carriers do accept digital proof
  - carriers refusing to accept travel with national identity cards for EEA/Swiss citizens covered by the Separation Agreements<sup>57</sup>
  - non-EU visa nationals denied boarding through not having a BRC despite also being able to demonstrate their status via the View & Prove portal

<sup>57</sup> Gov.UK Policy Paper (2018) - [34](#) , Gov.UK Policy Paper (2018) - [35](#), Gov.UK Policy Paper (2019) - [36](#)

- non-EU visa nationals struggling to have their valid EEA BRC accepted for travel

138. We set these out in great detail in this report because these problems will be magnified many times over once the UK's planned changes for 'Permission to Travel' are implemented within the next two years (see Chapter 5).

#### 4.5.1 Unable to use online check-in

139. Some are reporting issues not being able to use online check-in, due to carrier online systems unnecessarily asking for proof of immigration status for EEA/Swiss citizens, and compounding this by not understanding the UK digital status.

*"I had problems with online check-in for flight to UK. Airline is requesting proof of visa or ID card number and don't provide options for settled status. No online check-in possible, also not via phoning customer service. Hopefully airport check-in will work." – April 2021*

*"I am a [EU] passport holder living in the UK for 12 years. I will be travelling with my husband, children and other family members all BRITISH citizens to [EU country] in August. I am a frequent traveller and usually we fly British Airways and never had any issues. This time the flight is being operated by Vueling. have managed to do the online check-in for all the BRITISH passengers except myself. The error message said "The nationality entered is not on the list of countries that allow online check-in. Please go to the check-in desk in good time to get your boarding pass." I managed to speak with someone on twitter who said "as the procedure for checking the appropriate documentation regarding non-EU flights you must do the check-in at the airport" and when I pointed out that this was a flight to an EU country they said "this is a non-EU flight since UK is a non-EU / non-Schengen destination, in this case you must do the check-in at the airport". The explanation makes no sense because my British families are able to check-in online and they are non-EU members flying into the EU. Vueling has no right on checking my immigration status nor my Leave to remain status nor anything else that is not already shown on my passport." – September 2022*

*"Traveling on Estonian passport, EUSS linked to it, returning from a 5-day work trip to the USA. Check in for direct flight from [US city] to London was unsuccessful on the United Airlines app. Airport check-in machine alerted staff member to check my visa. Long text on the system saying Estonian passport holders need a visa (not true). Explained that I have a digital immigration status, ILR under EUSS. UA clerk had no knowledge of EUSS and kept referring to the visa requirement on the screen. I showed my UK issued driver's licence with UK address, but she declined to accept this. Preparing for getting questioned, I had saved the pdf that came with the home office email, in my phone. Although the letter clearly says that this is not the proof of status, the staff member decided to accept it after reading through the whole 3-page text on my phone screen! So, I was allowed to continue with the check in." – June 2022*

140. We consider this will become a very substantial problem for all non-British/non-Irish citizens once the UK implements its future problems (discussed in *Chapter 5. Future changes affecting travel*), especially since biometric residence cards and permits issued since 2020 are only valid until 31 December 2024.

#### 4.5.2 *Asked for proof of immigration status for EEA/Swiss citizens*

141. Since early 2020, the3million has written extensively<sup>58</sup> to the Home Office regarding travel for EEA/Swiss citizens with EUSS status. Throughout this correspondence, the Home Office has repeated that *“we have been clear with carriers that they are not currently required to establish an EEA or Swiss citizen’s immigration status, or to confirm that they are entitled to enter the UK on a national identity card, when deciding whether to bring them to the UK. They only need to check the individual has a valid passport or valid national identity card.”*
142. Besides these assertions in correspondence, we have not seen any of these information materials provided to carriers which confirm that immigration status does not need to be checked for EEA/Swiss citizens after the end of the transition period. A parliamentary question<sup>59</sup>, asking *“what written guidance the Government has issued to international (a) airlines and (b) border authorities on how the EU Settlement Scheme operates without physical documentation.”* was answered on 3 February 2021. The response only makes reference to “established channels”: *“An alert was issued to all carriers responsible for international flights through established channels stating they do not need to request evidence of settled or pre-settled status for eligibility for carriage to the UK.”*
143. However, new information was issued to carriers in May 2021, related to the upcoming change in policy in October 2021 to no longer accept national identity cards at the UK border, except from those protected by the Withdrawal Agreement.
144. As part of our correspondence<sup>60</sup>, the Home Office provided links to the May 2021 guidance it provided to carriers in the form of ‘Partner Packs’<sup>61</sup>. Whilst these state in the small print that carriers do not need to check immigration status of EEA/Swiss citizens or their entitlement to travel with a national identity card, the headline message is ***“ID cards are no longer be [sic] accepted for travel to the UK, unless the exceptions apply.”*** These messages are clearly in direct contradiction to each other because it begs the question of how a carrier can determine whether an exception applies if not to check immigration status. This contradictory messaging lies at the heart of the issues that EEA/Swiss citizens have faced since free movement ended, only to be increased since the 1 October 2021 change on travel with a national identity card.
145. We have seen correspondence from the Home Office which confirms that carriers do not receive S40 fines or charges for carrying EEA/Swiss passengers to the UK who hold a valid passport or national identity card. This is confirmed by a written Parliament Question<sup>62</sup>. Furthermore, an FOI<sup>63</sup> confirmed that between January 2021 and June 2022, only 34 charges were issued to carriers under Section 40 of the Immigration and Asylum Act 1999 for carrying EEA/Swiss nationals. An earlier FOI<sup>64</sup> had shown the reasons that can lead to these charges, the relevant ones for EEA/Swiss nationals (being non-visa nationals) most likely to be expired or false travel documents.

<sup>58</sup> the3million and Home Office (2020 – 2022) - [1](#)

<sup>59</sup> UK Parliament (2021) - [70](#)

<sup>60</sup> Letter 15<sup>th</sup> February, the3million and Home Office (2020-2022) - [1](#)

<sup>61</sup> E.g. Home Office (2021) - [30](#)

<sup>62</sup> UK Parliament (2022) - [71](#)

<sup>63</sup> Home Office FOIA (2022) - [28](#)

<sup>64</sup> Home Office FOIA (2022) - [21](#)

146. However, the same FOI<sup>65</sup> which shows the 46 S40 charges issued to EEA/Swiss nationals also gives information on the number of times a carrier has been required, at the carrier's expense, to remove an EEA or Swiss national who has been refused leave to enter when arriving in the UK. This shows firstly, that in the same period between January 2021 and June 2022, carriers were required approximately 9,700 times to remove an EEA/Swiss national who did not have immigration status on arrival in the UK.
147. This is 285 times higher than the number of S40 charges issued to the same cohort, and is therefore far more likely to be a driver of carriers' reluctance to let EEA/Swiss citizens travel without proof of immigration status. The UK removal obligations policy for carriers is fundamentally at odds with the statement in the carriers' packs<sup>66</sup> that "*carriers are not currently required to check an EU, EEA or Swiss citizen's immigration status, or their entitlement to travel on a national identity card, when deciding whether to bring them to the UK. They only need to check that they have a valid passport or national identity card.*"
148. It is therefore not surprising that many carriers have been demanding proof of immigration status from EEA citizens before allowing them to check-in.

*"When I returned from Canada, Air Canada asked me to prove that I will be admitted to the United Kingdom and that I had the right to reside there" – March 2021*

*"I am a [EU] passport holder. Every time we travel to UK (LHR) from Goa, India (GOI) with Air India, the check-in staff DEMANDS to see our pre-settled/settled status letter. I told them even if it were my first time to UK, I could travel visa free, even if I'm not eligible for EUSS status. They still demand to see status. It stressed me out. We almost had a panic attack." – September 2022*

#### **4.5.3 Asked for physical proof of immigration status for EEA/Swiss citizens**

149. In a great number of cases, not only do carriers want proof of immigration status but they insist it must be physical. This started even before the end of the transition period, as carriers had clearly heard about Brexit but apparently did not know how this impacted on carrier checks. The UK Government has imposed their new digital-only status on a very large population of EEA/Swiss citizens, but it appears they have not sufficiently considered the impacts of this outside of the right-to-work, right-to-rent and other delegated immigration functions *inside* the UK.
150. One respondent told us they applied for a PR card which was meaningless within the UK but helped to satisfy carriers.

*"Travelling to the UK on an EEA passport has started being a problem. Even though I have no issues with the UK authorities, the problem is actually ALL around the world. In Doha, Banjul, Manila, Beijing, Bogota, Addis Ababa, everywhere I've travelled on work on official UK government business, I have been asked whether I have a visa or not. I applied for and received a PR card in 2020, too, especially for immigration officers globally who do not know what settled status is and that I do not need a PR card. Quite appalling really that the UK government has not thought of that and only thinks of proving our rights when in the UK only. I would not have been unable to fly out of the Gambia if it had not been for my PR card." – December 2020*

<sup>65</sup> Home Office FOIA (2022) - [28](#)

<sup>66</sup> Home Office (2021) - [30](#), Home Office (2021) - [31](#), Home Office (2021) - [32](#)

151. Another respondent happened to have a printed National Insurance letter with him, which was accepted.

*“I was asked for a residence card when I was doing the check in with Iberia to fly back into UK. I was flying from a third country (Argentina) and the check-in officer insisted for me to have a physical paper to demonstrate that I was living in UK. This led into a discussion on how to prove that I was allowed to fly back to UK without a return ticket. They did not understand how it was possible for me not to have a paper or a letter that shows that I was living in the UK. The situation was resolved because luckily I had with me the NiNo letter. It was quite an unpleasant and tense situation. I really needed to fly back and it made the whole travel experience quite stressful.” – January 2021*

152. The Home Office answer to our lengthy correspondence about how EEA/Swiss citizens could prove their residence in the UK was always that carriers did not need to check this status. This is of course because the Home Office is planning their future systems<sup>67</sup> from 2023/2024 so that carriers can check immigration status automatically.

153. However, this did not account for unexpected events like the Coronavirus pandemic, when clearly people did have to prove they had residence in the UK to distinguish themselves from visitors of the same nationality when countries were ‘red-listed’. When we specifically wrote to ask how people should do this, the Home Office replied<sup>68</sup> that they should use View & Prove. Unsurprisingly, many carriers did not accept this, and we received reports of people being unable to return to the UK. Although these Covid travel restrictions are now behind us, they serve as a warning to what will happen when future ‘automated checks’ of immigration status fail.

*“My settled status was not considered a proper document indicating residency in the UK, so I was unable to fly back for weeks during the UK lockdown situation. I could not fly back to London where I have lived for 10 years.” – January 2021*

*“I returned from Portugal 2 weeks ago, when UK Gov imposed Portugal travel bans overnight. All direct flights were cancelled immediately, but my partner and I were able to book a flight on the next day via Amsterdam. We were prepared for all COVID related requirements (negative test in the 72 hours preceding the flight; completed passenger locator card, etc.) but couldn’t guess that we would be asked to prove our residency status before boarding - in Portugal and in the Netherlands. Luckily we decided to print out our settled status confirmation email, which specifically says that it is “not proof of your status”, but it was the only thing we had at that time. No information about the need to prove UK residency was issued by the authorities (UK gov, airlines). Some EU passengers were denied boarding because they couldn’t present a similar document. We had to present this ‘document’ several times during our journey: at the check-in desk in Portugal; at the boarding gate in Portugal; and then again at the boarding gate in Netherlands. The general feeling was that this was way more important than having a negative COVID test. This was an extremely stressful situation. I felt like a second class citizen.” – January 2021*

154. Even after Covid-related travel restrictions, and after the Home Office told us they issued guidance to carriers that included not having to check the immigration status of EEA/Swiss citizens, people continue to report that they are asked for immigration status. We have accounts of people unsuccessfully trying to explain View & Prove to carriers. We received an account from someone who had to use an opportunity to evade a pre-check agent to reach the check-in desk.

*“I am an [EU] national with settled status attached to my passport. In February 2022, I went to Dubai to visit a friend. I was flying back alone to the UK with Oman Air, in two sections: Dubai-Muscat then*

<sup>67</sup> Gov.UK Policy paper (2022) - [68](#)

<sup>68</sup> Pg 2, letter 28<sup>th</sup> May 2021, the3million and Home Office (2020-2022) - [1](#)

*Muscat-London. When I presented myself to check my hold luggage at Oman Air's counter in Dubai Airport, there was an agent in charge of verifying COVID docs and immigration status of everyone queuing, before we could reach the check-in desk. That man demanded that I produced a physical visa and repeatedly said that going on a website wasn't a proof, and that I needed to show that I had booked a plane ticket UK-France as well to be allowed to board. Obviously, I had no such thing, since I was going back home to London. I had multiple proofs of address with me, my passport showed a British address, but nothing satisfied him. He then told me to stand aside and find a solution and that he would come back in a minute, as a colleague was calling him. I took advantage of him being distracted to move forward to the check-in desk anyway. The lady there was equally confused by the concept of the digital immigration status, but after I insisted a lot she finally took my luggage and let me go through. The UK government needs to understand that when settled status holders are out of the EU, many airlines and immigration agents have never heard of the existence of a digital status and it's very difficult to prove our rights. To these people, going on a website to show a certificate sounds like a scam. I have been lucky to be able to sneak my way home, but what if I had not? It was very stressful. I felt completely let down by the digital immigration status system. If I had been stuck in Dubai, I would have missed work and a medical appointment that I had been waiting for for months." – May 2022*

155. Others find some other document that satisfies the carrier, such as a driving licence which of course is not available to all, or a passport showing it was issued in the UK.

*"I was booking in for a return flight from South Africa to the UK. The airline wanted proof of my right to reside in England. I asked what would suffice? They said a property lease or utilities bill in my name. I do not have either of these. I told them that I have pre-settled status which they could check online. They said they need physical proof, something in writing. I thought of my driving licence which has my residential address on it. That satisfied them. Phew! I felt very vulnerable." – June 2022*

*"My husband flew back from the US to the UK last week. At the check in service he had been asked for his visa or something else to prove his settled Status. Share code didn't help as they are not supposed to check anything online. Screenshot from the status has not been accepted as proof. He got his passport issued in London, this was accepted as proof. If it would have been me, I would have had no chance to proof as my passport is issued in my home country and still valid. Physical ID is necessary." – May 2022*

*"Emirates check-in in India for London wanted to see physical proof of UK id. Luckily I had my UK driving licence with me. Not sure what would have happened otherwise (although I'm now travelling with printed utility and council tax bills :-), but I didn't get to show those this time)." – July 2022*

156. One respondent was eventually only allowed to board – after an hour's wait for a supervisor - because they had an onward flight out of the UK the following week. Note that the carrier completely refused to accept a digital status.

*"My check in was almost denied by Delta airline in the US since they wanted a paper certification that I had my residency in UK with my [EU] passport. They continuously requested for a visa on my passport or a certificate. They did not accept under no circumstances a "website in the internet" (they laughed) and refused to give me an email to send them my share code. Since I had another trip to Munich the next Monday they let me board after waiting for an hour for a supervisor. It is extremely stressful to not know if I am going to be able to return to my house. I have nothing to prove that I can board my plane. This also delayed me adding more stress to my situation. This is the second time this happens to me." – June 2022*

157. Others still were not so lucky and were denied boarding – even by in this case British Airways. We are concerned as to whether discrimination plays a part here, since clearly this is not affecting all EU citizens travelling to the UK with British Airways from an EU country.

*"British Airways in Spain refused to allow me to check in for my flight online or in person, insisting I needed to show them my right to live in the UK. I explained that it is a chip in our passports that only the UK border could read rather than the airline, and I wouldn't be denied entry. But they refused unless I*

*could show them physical proof. BA should know the UK's rules on not providing us with physical visas but what is more crazy is that as an EU citizen, I do not need a visa or show a return ticket to visit the UK. They could have let me board as a visitor. I could not pull up the website but also the website is not for this purpose. It is for employment and landlords. I missed the flight, I'm frightened about not being able to return home." – June 2022*

#### 4.5.4 Concerns around providing digital proof of status

158. For those carriers that do understand and accept the UK's implementation of a digital status, the current process is not fit for purpose at a check-in desk. We do understand that this is not the Government's vision, that carriers are in theory not currently required to check immigration status, and that interactive Advance Passenger Information systems are planned to check status by 2023/2024. Nevertheless, it is crucial to highlight these problems, because when these systems fail – at certain times or for certain individuals – the View & Prove system will be the only fallback that passengers have. Carriers won't understand it, and even when they are willing to engage with it, it is not an appropriate process to go through at an airport.

*"I am a European citizen with settled status in the UK, and was travelling from Japan to the UK in January. When checking in at the airport I was not let go until I proved my immigration status in the UK. What got me nervous was that none of the staff knew what settled status meant and they kept asking me for a card to prove I could travel there. I had to explain to them how it worked, and that it could only be checked online. When checking it on-line on my phone, the process itself is really lengthy, the fact we need to receive an email or text code everytime we want to check the settled status is baffling... It didn't work the first time I did it, so I literally stayed there longer than everyone else checking in. It's just not a practical solution nor efficient." – January 2021*

*"I had an error message from their system in 2 occasions and only had access to internet in EU countries. I would be unable to prove my status if boarding from any other countries. Another issue is that a code is sent to your mobile or email to proceed online and the waiting time to receive it cause discrimination and delays while being served by an border official or an airline attendant - the code also expires in 5 minutes not leaving much time to manage the situation so you have to start again. It causes me an extreme amount of anxiety with the fear of an error message and also concerns on not having access to internet when needed." – February 2021*

159. For others, where they are suffering a personal 'glitch'<sup>69</sup> on their status such that the wrong information is displayed and the Home Office appears unable to fix this in a timely manner, this will impact their ability to use View & Prove at an airport. The Home Office tries to reassure through for example Employer Checking Service or Landlord Checking Service, but once again this does not address problems proving status to agents in other situations and outside the UK.

*"My biometric card shows the correct name as it is on my passport, but on the digital portal my whole name is wrong. I have raised issue multiple times to Home Office for two months but still it's same." – June 2022*

160. Many people worry about what would happen if they are asked to use View & Prove to demonstrate their EUSS status and they cannot access it due to lack of data roaming, WiFi, or the battery on their phone running out. This respondent was clearly told that they would have been denied boarding if this had happened:

*"I am an EU citizen. I have settled status in the UK linked to my ID card. Last week I travelled to Portugal, and on my way back to London, I was asked twice by Ryanair staff to show my settled status, at check-in*

<sup>69</sup> See also our correspondence about broken statuses at the3million and Hongkongers in Britain (2022) - [16](#) and the3million (2022) - [17](#)



*and at the boarding gate. I had to access the prove-your-status website to show them my status. Also when I asked if they could deny me boarding if only my battery was down they said they could and would.” – August 2022*

161. Others have reported to us how they were unable to receive a boarding pass at check-in, because the View & Prove system failed for them as an individual due to a glitch after attempting to update their UKVI account with a new address.

*“We were trying to travel back to UK from Brazil. We were not able to receive a boarding pass, since we could not proof our settlement status because of issues in the system. When I checked I also received the “Your details do not match our system” screen. I have a print out copy that my settled status was approved (two years ago) with the same travel documents, but it was not sufficient. HO told me there is no problem with the system. I was not able to return to UK. I escalated the situation with my employer and the [EU] Embassy, I was told it is a common issue, which might be caused by me moving after achieving my settlement status. I updated my new address in the Home Office and HMRC systems after moving, but it seems there is an issue in the system.” – June 2021*

- 162. Policy change should be sought such that, for so long as carriers are not required to check all non-British/Irish passengers’ immigration status, carriers must allow non-visa nationals (including EEA/Swiss citizens) with a valid passport to travel to the UK, and must not deny them boarding on the basis of not being able to check UK immigration status. Carriers must be clearly assured that they will not incur any charges or fines for allowing non-visa nationals with a valid passport to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation mechanism for non-visa national citizens denied boarding to the UK when travelling with a valid passport.**

#### **4.5.5 Carriers refusing national identity cards for EEA/Swiss citizens**

163. The Withdrawal Agreement specifies clearly in Article 14 that citizens have the right to exit and enter the host state “with a valid passport or national identity card in the case of Union citizens and United Kingdom nationals” and that the host state may, after five years, only remove the right to enter and exit with a national identity card “if such cards do not include a chip that complies with the applicable International Civil Aviation Organisation standards related to biometric identification.”
164. On 8 October 2020, the UK Government announced<sup>70</sup> that EEA/Swiss citizens would not “be able to use your EEA or Swiss national ID card to enter the UK from 1 October 2021.”, unless they fall into a number of exemptions, including holding status under the EUSS.
165. It is notable that the Impact Assessment<sup>71</sup> of this decision, dated 10 September 2021, does not include the cohort we represent in their list of “A.3 Groups Affected”. In so far as it includes the impact on citizens, it only considers those (non-EUSS) EEA citizens who can no longer travel with a national ID card. It does not consider the impact on those EEA citizens who are part of the ‘citizens’ rights cohort’ and who still have the right to travel with a national ID card.

<sup>70</sup> Gov.UK Guidance Archive (2020) - [37](#)

<sup>71</sup> Home Office Impact Assessment (2021) - [33](#)

166. The impact assessment estimates (paragraph 6) that around a third of all EEA citizen arrivals at UK airport travel using a national ID card. If that percentage were to be applied to the “citizens’ rights cohort” this could mean 1-1.5 million people from the citizens’ rights cohort travel with a national ID card.
167. Ever since 1<sup>st</sup> October 2021, when the decision was implemented, we have received many reports of people struggling to travel with a national identity card – overwhelmingly when attempting to board abroad rather than when entering at the UK border.
168. In our view, this problem has arisen from a Home Office communications failure, notably around a failure to recognise that the following three facts cannot be easily reconciled:
- Carriers are fearful of being charged fines or being responsible for returning citizens who are not allowed to enter the UK
  - **Only** those with a particular immigration status can continue to enter the UK with a national ID card
  - Carriers do not need to check EEA/Swiss nationals’ immigration status
169. As the Impact Assessment makes clear, the reason for the change is the Home Office desire for security improvements. Therefore clearly if the citizens’ rights cohort ‘gives up’ trying to travel with a national identity card and uses a passport instead this would be in the Home Office’s interest. In our view, this has taken precedence over a good faith commitment to uphold Withdrawal Agreement rights.
170. This is clearly illustrated by the guidance provided by the Home Office to carriers in the form of Partner’s Packs<sup>72</sup>. These headline with “**ID CARDS NO LONGER ACCEPTED FOR ENTRY**” on page 2, then state on page 3 that “**ID cards are no longer be [sic] accepted for travel to the UK, unless the exceptions apply.**” And “**Anyone travelling to the UK on an invalid travel document is liable to be refused entry at the border.**” Only on page 8 do they say in a small bullet point that “*Carriers are not currently required to check an EU, EEA or Swiss citizen’s immigration status, or their entitlement to travel on a national identity card, when deciding whether to bring them to the UK. They only need to check that they have a valid passport or national identity card*”.

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<sup>72</sup> Home Office (2021) - [30](#), Home Office (2021) - [31](#), Home Office (2021) - [32](#)



- 171. The fact that small print states that immigration status does not need to be checked for EEA/Swiss citizens cannot undo the primary messaging that there was a big change on 1<sup>st</sup> October 2021, that EEA/Swiss citizens **cannot** travel with an ID card **unless** they fall under an exception. How is a carrier supposed to determine whether someone falls under an exception, **other than** by checking their immigration status?
- 172. The messaging in these Partner Packs is entirely illogical. If carriers are not required to check EEA/Swiss citizens’ entitlement to travel on a national identity card, then why are they being forcefully informed that “**ID CARDS NO LONGER ACCEPTED FOR ENTRY**”? This contradiction lies at the heart of the problem our constituency has faced.
- 173. This Freedom of Information request<sup>73</sup> by a member of the public (about those with EUSS status but without smartphones or tablets who have been wrongfully denied boarding) highlights exactly this contradiction (our emphasis):

*“I’m given to understand that [...] carriers are NOT expected to verify EUSS status of passengers presenting a EEA/Swiss national ID card, **even though it’s specifically on the basis of their status that they may still travel to the UK on an ID card in the first place.** The fact that carriers aren’t supposed to require proof of EUSS status is anything but known to the airlines and handling agents I’ve dealt with, with two friends of mine (who also lack smartphones/tablets but hold settled status) also having been wrongfully denied boarding at different airports abroad since 1 October, due to being unable to present “an official certificate” proving their status (the letter of being granted status was rejected on both occasions)”*

- 174. Aside from the simple fact that the citizens’ rights cohort has the right, under the Withdrawal Agreement, to travel with a national identity card, some people have reasons to do so beyond their control such as having to temporarily part with their passport or while renewing, or struggling to renew, a passport:

*“I was traveling on my European ID, as my passport was being renewed. My pre-settled status is linked to my European ID. On my way back to London, the check-in staff asked me for proof of EUSS status. I*

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<sup>73</sup> Home Office FOIA (2021) - [18](#)

*was at a loss, told them that a physical ID doesn't exist. I offered them a share code but they refused to take it, saying that it meant nothing to them." – May 2022*

*"In recent months since February this year I am forced to travel with my Polish National ID card, as my passport expired then. Due to the current war in Ukraine there is a heightened demand for passports in Poland. Passport offices in Poland implemented online appointments, where you have to first book an appointment on their website before you can come in in person to file a form to renew your passport, but the online appointment system is overflowing with applications and they closed it for the unforeseeable time claiming that they have no more available appointments for the rest of the year. Trying to renew my passport through the Polish embassy here in the UK proved to be impossible as well. They run a similar online booking system, before you can even go to the embassy to file a form for renewing your passport and every day I have been trying to book an appointment I receive the same message that they are fully booked and currently they have no more available appointments asking me to try some other time. I even tried Polish embassies in other cities thinking that the problem might be limited only to a busy London, I tried booking an appointment in Manchester, in Birmingham, in Bristol, in Southampton, in Bournemouth, but sadly everywhere in the UK trying to get an appointment to renew your Polish passport through the Polish consulate is impossible. Currently I am only left with my national ID card, in an impossible situation to get my passport renewed. Every time I travel to Europe this is not a problem, but coming back to the UK on my ID card always creates a problem." – June 2022*

*"I can't currently travel with my passport as it has run out and I am waiting for an appointment with my embassy. Staff at the airport I was travelling from were unwilling to listen when I explained that I have settled status and that this means I can travel with an ID card. I was kept till all other passengers had boarded the flight and was very worried I would not be allowed to board. I have Asperger syndrome and I find airports, check in, security etc very stressful anyway. This made my journey extremely unpleasant." – March 2022*

*"I have settled status associated to my [EU] passport and ID card. I sent my [EU] passport off to the Home Office as part of my application to a UK passport meaning that I have had to travel to and from Portugal on my ID card. This should not have been an issue because I could easily show proof of settled status online. However, Ryanair staff at Faro airport insisted that I am unable to travel on an ID card." – October 2021 .*

175. The lack of logical consistent messaging led many to be denied boarding solely due to travelling with a national identity card. This started in October 2021, after the UK messaged to carriers that national id cards were no longer accepted, but continues to today even after a year of engagement with the Home Office to improve their messaging:

*"My husband was denied to board the plane home. He has settled status and was refused because they said he was not allowed to board with his EU ID. He tried to explain everything but they just told him "sir you need to go or we call security". This was a very embarrassing and emotional encounter. He works away in [EU country] and was coming home after 5 weeks to see his children, this was a horrible thing for them that their father didn't come home. The flight was with British Airways. We lost so far £150 but no response from BA, not even sorry. And he is still in Denmark!" – October 2021*

*"My family of 3 were denied boarding by EasyJet at [EU] airport for travelling with EU id cards. Staff requested for an additional residence card showing address in the UK. Refused to accept that the status is digital, refused to look at View and prove online because it does not contain address and is not a residence card. This was very stressful with our 5 year old daughter crying for not being let go home. We had to pay for tickets with another carrier which did accept ID cards. Because we came back late I had missed an antenatal scan as I am 21 weeks pregnant." – June 2022*

176. Others reported having to give up and buy emergency passports in order to come home to the UK:

*“We were not allowed to check in at EasyJet with an ID card despite the information on their own website. We were forced to buy an emergency passport. We received no help with Rebooking or any other help. They asked for physical proof of status and refused to look at the EU Settlement Scheme Status e-mail. This meant we could not travel back from [EU] to the UK after a funeral. It meant that my daughter was not back on time to work. It created a lot of costs to get home.” – December 2021*

*“Airline would not let me use id to check in for flight to UK. So I applied for a temporary passport as I had lost my normal passport. Another 60 euros down the drain.” – January 2022*

177. This recent example shows how persistent the problem is. Although the respondent in this case had a backup passport, their Withdrawal Agreement right to travel with a national identity card was completely denied, and they do not feel confident that they could travel without a passport in future:

*“At [EU] Airport check-in for return flight back to London: BA's local handling agent refused to print my boarding pass for online check-in when presenting my [EU] identity card. When stating that I hold UK residency/settled status and I am entitled to use my EU ID card, the agent repeatedly just asked for "written proof" that I hold residency and refused to escalate the issue. On this occasion I had my passport in my carry-on luggage. However, I am now more concerned for future travel when I do not have my passport on me (during renewal or when lost) and the value/status of rights conferred by the UK EU Withdrawal/citizen rights agreement more generally.” – June 2022*

178. As a final example, this older respondent sent us a personal account of how stressful it was to try to navigate the View & Prove process at an airport.

*“I am [EU], have lived in England since early 1970s and got settled status with no problems. I booked to go to France from UK, in July, with EasyJet. I filled in forms on the airline company website mentioning that I had an [EU] identity card and my husband a British passport. I had no problems at the border control when I arrived in France. Two weeks later, in [French] airport, I was told I could not go back to England as I did not have a passport. I explained that there was no problem coming in with an identity card and that EasyJet was aware of the situation. The answer was that the computer was not clever enough to notice it!! I was given a number to phone the company but did not manage to get any answer. I said that I had settled status. I showed them a form I printed from the Government website, with my name and photo, mentioning that I could stay in the UK indefinitely. As there was no date, it was not good enough. So with the help of my husband's iPhone I got to the government website. Somehow I had difficulty as the number sent to my mobile phone was not first accepted. As I had on the iPhone more or less the same information as the one I showed previously, I thought that the EasyJet staff may accept it better than something written on paper and, fortunately, it worked. I was told that since Brexit I had to have a passport to travel. Not true, I travelled to [EU country] twice and many times to France, with Eurostar, with no problems. I know that my problem was a minor one but if I had come to [French] airport just an hour instead of three before boarding, I would not have been allowed to travel. It took me a very long time to sort the problem out. My husband who has [serious health condition] was more shocked than me.” July 2022*

- 179. Policy change should be sought such that, for so long as carriers are not required to check all non-British/Irish passengers' immigration status, carriers must allow EEA/Swiss citizens with a valid national identity card to travel to the UK, and must not deny them boarding on the basis of not being able to check UK immigration status. Carriers must be clearly assured that they will not incur any charges or fines for allowing EEA/Swiss citizens with a valid national identity card to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation mechanism for EEA/Swiss citizens denied boarding to the UK when travelling with a valid national identity card.**

#### 4.5.6 *Visa nationals with EUSS status denied boarding for lack of physical biometric card*

180. All EUSS status holders have digital status. For the EEA/Swiss citizens with EUSS status, this digital status is all they have, whereas their non-EEA/Swiss family members with EUSS status are also issued with a biometric residence card [BRC]. These BRCs have been issued with an expiry date of 31 December 2024 (or earlier if for pre-settled status which expires earlier).
181. As we have seen in earlier sections, the Government’s approach in principle has been that no carriers have needed to engage with the digital View and Prove system. We assume this is in part because the Home Office understand that this is not a fit for purpose system to be used in check-in queues or at the boarding gate, being cumbersome, dependent on data connections, services which are not 100% available, and a willingness by carriers to access UK government’s websites by hand.
182. Rather, all hopes for carriers checking passengers’ UK immigration status are pinned on the system that is still being built – the Interactive Advance Passenger Information system that will be discussed in Chapter 5.
183. The Government’s “Document checks and charges for carriers” guidance therefore made no mention of the EU Settlement Scheme at all (until 25 February 2022, after correspondence with the3million<sup>74</sup>). The existing requirement for visa nationals to show a physical visa or proof of residence status simply continued as before.
184. However, a communications debacle directly led to dramatic reports of people with EUSS status left unable to return to the UK. This was because these people had been led to believe that their new digital status would be sufficient to demonstrate their rights to carriers, so if their biometric card had expired, had been lost or stolen, or they were waiting (often a long time) for a new biometric card, they thought they nevertheless had the right to travel and could show their status digitally.
185. This is set out clearly in our letter to the Home Office of 6 January 2022<sup>75</sup>, together with three representative cases we had received by then. The letter highlights the areas where this communication was especially misleading:
- the Gov.UK website on EEA residence cards explicitly stated that *“You do not need to apply for a new one”* and provided no information or links to EUSS residence cards
  - a mass mailshot sent to all EUSS status holders in the autumn of 2021 missed the opportunity to say anything about BRCs, instead saying in a section on travel *“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 [...] as long as you intend to travel using the document you used to apply to the EUSS.”*

<sup>74</sup> Letters dated 6 Jan 2022 and 15 Feb 2022, the3million and Home Office (2022) - [6](#)

<sup>75</sup> Letter 6 January, the3million and Home Office (2022) - [6](#)

- When people logged in to View & Prove, the section on rights said nothing about BRCs or travel documents, and indeed told status holders that their EUSS status means that they can “travel in and out of the country without having to prove your status, as your information will be checked automatically.”

186. Although some changes have now been made to various Gov.UK websites<sup>76</sup> it is clear that the problem is ongoing and that people are still suffering substantial consequences from being unable to return to the UK.

187. This is despite many of these cases reaching the media, including for example the following, all from September 2022:

- Ali Abunejmeh and his son Sebastian stuck in Turkey (The National<sup>77</sup>, BBC<sup>78</sup>)
- Yvonne Dzhantov stuck in Bulgaria (The National<sup>79</sup>)
- Jose and Ornanjana Martinho and their daughter Alisha stuck in Portugal (Bolton News<sup>80</sup>)

188. We have received reports from people throughout the period September 2021 to September 2022. They were stuck in countries ranging from Italy, Latvia, Lithuania, Poland, and Spain through to India, Morocco, Palestine, Russia, South Africa, and Turkey. They were trying to fly with airlines across the range including British Airways, Ryanair, Turkish Airlines, Swiss Air, Virgin Atlantic and Emirates.

189. What is pertinent is the lack of support and correct information these people were given. They were given a range of advice from embassies, airlines and Home Office ranging from no-one knowing what they should do, to applying for an EUSS Family Permit (incorrect), applying for a replacement BRP (incorrect and costly). Some report only finding out about the correct option, applying for an EUSS Travel Permit, via a Facebook forum.

*“We called the UK immigration number in UK and they told us that he needed to apply for a BRP replacement visa. We did so online and booked an appointment to the British visa application centre in Rome for the next day. We went to the appointment and double /triple checked with the lady dealing with our application if that was really the only way for him to get back to the UK even though I have settled status and he has pre settled status. She replied yes. We paid more than £400 for trying to get this document ready within 7/10 days. 24 hours after we sent my application we received an email saying that his application was refused cause he was last issued with leave to remain under the EU Settlement Scheme. 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. Afterwards through Facebook forums we found out about another travel document used in this cases called “EUSS travel permit”. – November 2021*

*“Ryanair UK immigration department couldn't be contacted by me, as its not passenger communication channel. Airport denied boarding. British embassy in the UK said it has nothing to do with them and Home Office first appeared helpful but then redirected me to a phone number that wasn't available.” – January 2022*

<sup>76</sup> See full correspondence, the3million and Home Office (2022) - [6](#)

<sup>77</sup> The National (2022) - [96](#)

<sup>78</sup> BBC News (2022) - [95](#)

<sup>79</sup> The National (2022) - [97](#)

<sup>80</sup> The Bolton News (2022) - [98](#)

*"I wasted money on a BRP replacement visa as the gov.uk website is so unclear. There is nothing on there about a replacement BRC, so one assumes they are the same." – February 2022*

*"Security contacted the UK Consulate in Pretoria and sent them a photo of the expired card. The consulate said they are not aware of an electronic version of the card. [Passenger] then went to the UK Consulate in Pretoria. She was given wrong advice first and sent a link to apply for a permit (which she did at her expense and attended a biometrics appointment). Then she was denied that permit and was sent another link to another visa application, and is going through this process at the moment." – February 2022*

*"This was obviously extremely upsetting for everyone. Even more so because we had called the Home Office prior to leaving and they had ensured us that because my wife's passport is linked to her settled status, we should have no problems at the border. We hadn't considered that the airline would not accept this. I then called UKVI as well the EU settlement helpline. No one could tell me what to apply for – someone at UKVI remarkably suggested that I speak to someone at citizens advice! After a lot of problem solving, I eventually worked out that the correct document to apply for was the EU settlement scheme travel permit." - March 2022*

190. Their reasons for not having a valid biometric card included it being stolen while abroad, being told they did not need to renew a card, information they saw when logging into View & Prove, and having been able to make other journeys without their card earlier.

*"My [non-EU] husband's residence card has expired in February and we were told that they don't exist anymore (it still says the same thing on the Government website). 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 ourself in." – November 2021*

*"My BRP has expired in May 2021 and I have not replaced it as I was told I can prove my status online." – January 2022*

*"My wife was originally there as an EU family member but after Brexit we both applied for and received settled status in 2019. My wife originally had an EU family member residency card which expired in May 2021. We never applied for a new one as all the information we had said that the UK immigration check app with a share code was the new way to prove your immigration status." – February 2022*

191. Our extended correspondence<sup>81</sup> has led to some improvements on the Home Office websites, although there are still requests from our side that have been outstanding for a long time. For example, the website <https://www.gov.uk/uk-residence-card/replace> still does not make clear that people can replace EEA BRC or a pre-settled status EUSS BRC before the card expires, and without charge. Crucially, it is still only discretionary for carriers to accept digital status from those who would ordinarily have a valid BRC but are unable to provide one.

192. The impacts on these people have been immense. Below are excerpts from some of the reports we have received of the consequences they faced for not being able to return home.

*"My kids haven't seen their dad in almost 4 months and this is really heartbreaking as they are just 3 and 2 years old. The oldest one is very attached to him." – February 2022*

*"Absolutely heart breaking and stressful – haven't been able to eat or sleep well." – February 2022*

*"I am unable to return home with my family. Both me and my wife work and can't attend our*

<sup>81</sup> the3million and Home Office (2022) - [6](#)



*commitments. Our son goes to nursery and is unable to attend. We need to stay on the couch with relatives. We lost a lot of money on the flights, travel to/from airport (2hrs drive from the place we stay), pre and post departure tests and now new flights are astronomically expensive.” – January 2022*

*“I cried for 24 hours straight after it happened, it's had huge impact on my mental health. Significant financial impact - flying back to parents' house, first wrong application, second application (at least £550)” – February 2022*

*“We are sitting in a hotel in limbo. The cost of staying in a hotel is starting to bite. We are missing out on our work and my daughter her nursery.” – February 2022*

*“Stuck abroad for weeks, missing university, child missing immunisations appointments and nursery, expenses on Airbnb, flights, PCR tests” – March 2022*

*“My patients at the hospital in the UK will be cancelled and their treatment will be delayed.” – March 2022*

193. The incoherence of the current situation where EU citizens have digital-only status and are not permitted a physical card, whereas non-EU citizens also have digital status but **must** show a physical card when travelling is well illustrated by the following respondent and her daughter who have both EU and non-EU nationality. Since they were granted EUSS status on the basis of their EU nationality, they have not been granted a physical document and are unable to get one. However, when they travelled together, they were not allowed to return to the UK because the daughter was travelling on her non-EU passport since her EU passport had expired.

*“Mother was returning with her daughter, from [non-EU country] to the UK via Istanbul. They were refused entry onto Turkish Airlines as the daughter's EU passport had expired in 2019, even though she had a valid [non-EU] passport, which wasn't accepted by the Turkish authorities. They were not allowed to leave the transit section of the airport. The [EU] consulate in Istanbul offered to provide an Emergency Travel Document - but they were not allowed in the transit section of the airport and mother and daughter weren't allowed to leave. 5 days later they were allowed to go back to [non-EU country] where they are looking to get an emergency travel document at the [EU] consulate there. They have suffered significant financial hardship - at the moment they don't have money for a return flight home. They slept on a terminal floor and airport benches, struggling to find food, having no money, unable to access basic facilities.” – February 2022*

- 194. Policy change should be sought such that carriers must allow visa nationals with a valid passport to travel to the UK if they can prove their UK immigration status via the UK Government's View & Prove web portal, and must not deny them boarding on the basis of not having a valid physical proof of status. Carriers must be clearly assured that they will not incur any charges or fines for allowing visa nationals with a valid passport who have proved their UK immigration status via View & Prove to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation process for visa nationals denied boarding to the UK when travelling with a valid passport and able to prove their UK immigration status via View & Prove.**

#### 4.5.7 Visa nationals struggling to have valid EEA BRC accepted for travel

195. People who applied to the EU Settlement Scheme with biometrics cards issued under the EEA Regulations have experienced problems travelling with it. There has been a great deal of confusion over the validity of EEA Residence Cards. The webpage [www.gov.uk/uk-residence-card](http://www.gov.uk/uk-residence-card) has undergone many changes.
196. In January 2021<sup>82</sup>, it stated: “You can no longer apply for a UK residence card. If you already have a card, **it will not be valid after 30 June 2021**” and “Until 30 June 2021, you can still use your card to help you re-enter the country more quickly and easily if you travel abroad”. It did not mention EUSS BRCs, and people who applied to the EUSS with their EEA BRC were not informed that they should apply for an EUSS BRC to replace their EEA BRC.
197. The website still stated that EEA BRCs would not be valid after 30 June 2021 on 4<sup>th</sup> May 2021<sup>83</sup>. By 8<sup>th</sup> May 2021<sup>84</sup> however, it was changed to say “If you have EU settled or pre-settled status **you can continue to use your residence card until it expires**. You do not need to apply for a new one. If you need to replace your card when it expires, you can [apply for a replacement](#).”
198. Inexplicably, at some time between 17 June 2021<sup>85</sup> and 25 July 2021<sup>86</sup> (as shown by the available web archive snapshots), the information about applying for replacement cards was removed again, and the page was changed to read “If you have settled or pre-settled status You can continue to use your residence card until it expires. You do not need to apply for a new one. Until it expires, you can use it to help you re-enter the country more quickly and easily if you travel abroad”.
199. The inconsistent messaging around the validity of EEA BRCs clearly led to more examples of people being stranded abroad, unable to convince carriers that their cards should still be recognised for travel. The following report shows that airlines simply assumed that after the end of the transition period on 31 December 2020, these cards would no longer be valid.

*“My non-EU husband with pre-settled status did not receive a physical card as they said his current card was valid for travel. However we were not told it would become invalid after dec 2020. He went abroad a few months ago. Now wants to return to UK and has been refused to board his flight as his card wasn't valid anymore and he could not use his digital status to prove he has a right to stay as the airline didn't know if they had to accept it for non-eu family members. He's unable to fly home without a card yet the Home Office never issued him a new card and never informed us he should upgrade his old residence permit into a new card before Dec 2020. He's stuck in [...] unable to board a flight home. Lost money due to non-refundable plane ticket. Has to book a new flight but has no idea if he will be allowed to fly despite having pre-settled status.” – August 2021*

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<sup>82</sup> Gov.UK Archive (2021) - [49](#)

<sup>83</sup> Gov.UK Archive (2021) - [50](#)

<sup>84</sup> Gov.UK Archive (2021) - [51](#)

<sup>85</sup> Gov.UK Archive (2021) - [52](#)

<sup>86</sup> Gov.UK Archive (2021) - [53](#)

200. Another Report-It respondent told in our follow-up conversation in December 2021 that his wife had almost been denied boarding on three separate occasions due to the carrier believing that UK issued EEA residence cards were no longer valid – twice with Ryanair and once with Lufthansa. He had rung the EU Settlement Resolution Centre who told him that EEA residence cards were valid for travel, but only found out from the3million forum and website that it is possible to replace an EEA residence card with an EUSS residence card. At that time, as detailed above, the GOV.UK website did not mention replacement cards.
201. In our correspondence from 6 January 2022<sup>87</sup> (discussed in detail in 4.5.6 *Visa nationals with EUSS status denied boarding for lack of physical biometric card*), the3million asked for information on upgrading biometric cards to be clearly signposted, and to ensure carriers are informed that EEA BRCs are valid for travel.
202. Again inexplicably, on 18 January 2022<sup>88</sup> the webpage had an extra sentence added, saying “**After your residence card expires, you can use the online service** if you need to [view your status or prove it to someone else.](#)”
203. The Home Office replied to us on 15 February 2022<sup>89</sup> telling us that they had made changes to their uk-residence-card webpage<sup>90</sup> to include: “*If you’re not from the EU, Switzerland, Norway, Iceland or Liechtenstein If your residence card is expired, lost or stolen, you need to [get an EU Settlement Scheme BRC to re-enter the UK before you travel abroad.](#)*”
204. There are still outstanding problems with this page, as we wrote to the Home Office about in April 2022<sup>91</sup>, namely that contrary to the information on the webpage, people with EEA BRCs do not need to wait until their cards are expired before applying for an EUSS BRC, and do not need to pay a fee to do so.
- 205. Ensure the Home Office clarifies on their website that people with EEA BRCs can apply for an EUSS BRC at any time even before expiry, and at no charge. Carriers must be clearly assured that they will not incur any charges or fines for allowing visa nationals with a valid passport and a valid EEA BRC to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation scheme for visa nationals denied boarding to the UK when travelling with a valid passport and a valid EEA BRC.**

#### 4.6 Abroad, returning to the UK – facing non-UK border control

206. Whilst most problems reported to us by EU citizens struggling to travel with a national identity card occurred either during the check-in process, or at the boarding gate, we did also receive reports of non-UK border officials demanding proof of UK immigration status.

<sup>87</sup> Letter 6 January, the3million and Home Office (2022) - [6](#)

<sup>88</sup> Gov.UK Archive (2022) - [54](#)

<sup>89</sup> Letter 15 Feb, the3million and Home Office (2022) - [6](#)

<sup>90</sup> 3 March 2022 archive snapshot Gov.UK Archive (2022) - [55](#)

<sup>91</sup> Letter 29 April, the3million and Home Office (2022) - [6](#)

207. While most of this report focuses on communication to *carriers* and *UK Border Force* by the UK government, these problems are also caused by a lack of understanding by the *EU Member States' border control*. There is insufficient awareness that the Withdrawal Agreement protects indefinitely the right of this cohort of EEA/Swiss citizens to travel with a biometric residence card.

*"I have both my Belgian ID card and passport linked to my EU Settled Status record. However when trying to present my ID card to French border officer at Eurostar St Pancras in London. I was told I needed to prove my EU settled status if I wanted to use my ID card. The same does not apply if I used my passport." – November 2021*

*" EasyJet accepted my girlfriend's [EU] national identity card for online check-in. At the airport, the Spanish police conducting Schengen exit controls refused to accept my girlfriend's [EU] national identity card. The Spanish police officer cited Brexit and stated incorrectly that Spain does not accept national identity cards, only passports. He then summoned EasyJet's nearby ground crew to ask whether my girlfriend's [EU] national identity card was acceptable for entry to the United Kingdom. The EasyJet ground crew responded incorrectly that the card was not valid for entry to the United Kingdom, even though my girlfriend told both of them that she has EU Settled Status in the United Kingdom, for which no proof was requested. The Spanish police officer repeatedly asked my girlfriend whether she had a passport, to which she repeatedly responded that she was travelling on her [EU] national identity card because this is her right in Spain as an EU citizen. I also informed both the Spanish police officer and the EasyJet ground crew that it was a breach of my girlfriend's EU treaty rights to refuse her [EU] national identity card at both Schengen exit controls and for travel to the UK as an EU citizen with EU Settled Status, but they ignored my comments. Fortunately my girlfriend had her [EU] passport in her cabin baggage, which she was carrying only for emergencies, and she reluctantly produced it to the Spanish police officer. We boarded our flight, but not without further objectionable behaviour by EasyJet's ground crew during the subsequent boarding process." – August 2022*

208. This Government's poor communication to carriers leading to this situation is discussed in detail in section 4.5.5 "*Carriers refusing national identity cards for EEA/Swiss citizens*".
209. We have had a number of disturbing reports relating to people of certain nationalities being singled out for hostile treatment when travelling. This incident happened with EU border officials – but see also sections 4.7 "*Abroad, returning to the UK – facing UK juxtaposed border control*" and 4.8 "*Abroad, returning to the UK – at the boarding gate*".

*"I am writing this message in relation to some issues that I have had at the [EU] border last week, which have terrified and upset me. I am a Romanian citizen with settled status; I have been living in the UK for almost 10 years, I work for a university and own a home and a car here. Last week, myself and my partner (British) were flying back to UK from a short holiday in [EU country]. I presented my Romanian passport to the [EU] border official at [EU] Airport, upon which I was asked about my reasons for travelling to the UK. I told the man that this is where I lived; he then asked me for proof of residency in the UK. I said that the UK has an online system for residency status, however I was happy to show him a print out of my 'Prove Your Status' page. Having looked at the print out, he said that he couldn't do anything with a piece of paper, and he asked if I could present a residency card. I explained once again that the UK does not issue these, my status could be seen online. He then turned to my partner and asked if he lived with me. My partner confirmed that we live together in the house that we own. The man then turned back to me and he said that my passport photo wasn't good enough, it was too faded, and proceeded to turn his nose while looking at it. I noted that my passport was fairly new (2020) and I have already had a couple of trips abroad were no one had raised this issue. He then handed the passport back to me with the comment 'I will only let you through because you're with him, otherwise there would have been issues. Next time it will help you more if you present a residency card as I can't do anything with a piece of paper'. This experience has left me distressed and anxious, and I worry that one day I will go on holiday and be unable to return HOME because I am unable to prove my settled status at foreign border control checks. I can't imagine what I'd have possibly done if I was left behind in [EU airport]; I'd have likely had to travel to the embassy in [EU capital] over 5 hours away, only to be told*

*that there was nothing wrong with my passport. I am very sad and disappointed about this whole situation” – July 2022*

#### 4.7 Abroad, returning to the UK – facing UK juxtaposed border control

210. The Independent Chief Inspector of Borders and Immigration [ICIBI] published “An inspection of juxtaposed controls”<sup>92</sup> in October 2022. The UK operates border controls through Border Force Europe, a Border Force command, in France, the Netherlands and Belgium, known as ‘juxtaposed controls’. The inspection was carried out between May and June 2022.
211. The report notes in paragraph 4.88 that *“data provided to inspectors indicated that Romanian nationals were consistently subject to the greatest number of further examinations of all nationalities at the juxtaposed controls.”*
212. Paragraphs 4.89 – 4.95 provide data to show that this pattern was also present in earlier periods – *“in the first 3 quarters of 2021, Romanian nationals were subject to further examinations at the juxtaposed controls at a rate of 10 times that of the second highest nationality.”*
213. The ICIBI’s made three recommendations in its report, Recommendation 3 being *“Within 3 months, conduct and publish a review to ascertain on what grounds particular nationalities are being subjected to a greater level of scrutiny than others at juxtaposed controls.”*
214. The Home Office’s response<sup>93</sup> to the report, published 18 October 2022, did not accept this recommendation, stating: *“Whilst the data shows that people from particular nationalities arriving at the juxtaposed controls have received more intervention at the border than others, this, in of itself does not mean that the Home Office has acted disproportionately given that the size of national cohorts arriving at the controls is not available for comparison. Examination at the border is undertaken based on the information provided by passengers, and not on the basis of their nationality. All passengers are treated with respect and their circumstances are considered on an individual basis. The Home Office has safeguards in place to assure operations at the border, regularly monitors the available data and will continue to keep this under regular review to ensure that there continues to be no policy intent or application at the juxtaposed controls, or other locations, that creates disproportionate outcomes for any travellers. We therefore do not accept that a specific review is required.”*
215. We do not understand why the *“size of national cohorts arriving at the controls is not available for comparison”*. Air passenger arrival tables<sup>94</sup> only break down the data between ‘British’ and ‘Non-British’. However, the notes state that *“Nationality is derived from that recorded in the API.”* Therefore even if the Home Office have chosen not to publish more granular data, it appears highly likely that they do in fact have that more granular data available.

<sup>92</sup> Independent Chief Inspector of Borders and Immigration (2022) - [75](#)

<sup>93</sup> Gov.UK Policy paper (2022) - [76](#)

<sup>94</sup> Gov.UK Official Statistics (2022) - [78](#)

216. In its news statement<sup>95</sup>, the ICIBI stated in response (our emphasis): *“Further, it is disappointing that the Home Office has rejected my recommendation regarding the disparate treatment of certain nationalities at the juxtaposed controls. While I accept that immigration functions are exempt from certain elements of the Public Sector Equality Duty and the Home Office has provided an assurance that passengers are not being targeted on the basis of nationality, my inspectors could not be satisfied that the current approach taken by Border Force in respect of the questioning and examination of arriving passengers of certain nationalities at juxtaposed controls could be objectively justified.”*

## 4.8 Abroad, returning to the UK – at the boarding gate

### 4.8.1 Proof of immigration status requested

217. We received many reports of boarding staff demanding proof of UK immigration status, sometimes from passengers wanting to travel with a national identity card, but sometimes also demanded from those travelling with passports. This has already been discussed in detail in section 4.5 *“Abroad, returning to the UK – check-in”*.

218. The fact that this is demanded while queuing to board makes it even more problematic for people, as there is time pressure to board everyone onto a flight. This respondent lost their flight because the Home Office portal was temporarily unavailable.

*“I was flying back to the UK using my ID card. When I was asked to show my proof of settled status using the gov.UK website, an error message appeared. I tried logging in various different times with no luck and consequently I was not allowed on board. The website finally allowed me to log in 1hour and 15 attempt later. By then I had lost my flight and had to miss an extra day of work.” – April 2022*

219. These respondents show how other factors such as poor internet access pose a risk of missing flights. The cumbersome multi-step login process that is View & Prove is not fit for purpose to be used in time critical situations at the point of boarding.

*“When boarding my flight, I had a poor internet access and the attendant wanted a proof that I could live in the UK with my [EU] Passport. This is why showing a physical document would have been easier. I almost missed my flight.” – February 2021*

*“I’d been through all the checks, security had checked my ID card, I had my boarding pass and everything. But right before boarding, an employee of the airline company just wouldn’t let me board unless I could show him a proof of my status. I was trying to explain that my status is digital, that he had no right to ask me for that, it’s for the borders in the UK to check. But he pulled me out of the line, all the passengers were waiting. My family had boarded ahead so I was alone, they wouldn’t let my kids or my husband come back to me. I had the printed confirmation letter from the Home Office, of course I know it’s not a proof, I offered to show him that but he said no. He wanted me to log into my Home Office account – it took a long time because I had to enter the details, wait for a code - then he grabbed my phone without my consent to look at everything. The whole thing took about 20 minutes. What if my mobile was off? What if I had no connection? I was crying on the flight back to the UK.” - August 2022*

*“I presented myself at the gate with my ID card and boarding pass and was denied boarding in the basis that the ID card was not sufficient. I was asked for a passport to which I responded mine had expired. I was then asked for immigration status. I tried to explain I live in the UK but and even showed my NI card but was constantly asked for immigration status and told I could not board without showing it. I was made to step aside until I showed my settled status, which took a while as I struggled to find the correct*

<sup>95</sup> Independent Chief Inspector of Borders and Immigration (2022) - [77](#)

*link for the government website. I was eventually able to find the website and show proof of my indefinite right to remain but was the last passenger to board (together with my British partner)." – August 2022*

220. In other cases the problem is caused by carriers not understanding the digital nature of EEA/Swiss passengers' UK immigration status – even 18 months after the end of the transition period. This is especially relevant to small regional airports and airlines, as the last example below demonstrates. The fact that this lack of understanding leads to people being denied boarding is an indicator of what is very likely to happen once everyone's UK immigration status is dependent on interactive Advance Passenger Information always working correctly, for everyone. This will be discussed in more detail in *Chapter 5. Future changes affecting travel*.

*"I am a EU national with pre-settled status in the UK. I was told I needed to show a proof. I said I had a share code they could enter on the Home Office website. I was told they needed a resident card. I said I didn't have any but I could login onto the Home Office website and show them proof of my status. I was told it didn't matter because what they needed was physical document that proved my pre-settled status. I didn't have any because it doesn't exist. I have not been able to board the plane." – October 2021*

*"Airline didn't allow me to board the flight because I had no physical evidence of my status. I am currently stuck in Italy and I don't know how to come back in UK as I have been asked a document that doesn't exist. I call the airline and cannot give advice as they say was my responsibility to have relevant documents to travel even if this document that they want don't exist. I am extremely frustrated at a loss of what to do next" – November 2021*

*"I was at the front of the line and was told I am not allowed to travel back to the UK without a passport since Brexit. I politely explained this was not the case and that as an EU pre-settled resident I am allowed to use my national ID to return to the UK at least until 2025. Once the staff checked more details on their airport computer, they requested I prove to them with some UK ID card my status. I explained to the staff there is no ID card for this purpose and that unlike my wife who is non-EU national my status is documented digitally. The staff did not believe me and called the UK border which told him I needed to present something called share code. I was lucky that the staff was able to get hold of the UK staff quickly and although they did not fully comprehend what a share code is they were ok with the answer. I generated my sharecode and showed it to the airline staff. Once the staff saw a set of random letters and numbers on my phone screen, they decided that it was ok for me to board the plane. At this time the rest of the passengers boarded the plane. If I was not the first in the line and without priority boarding the plane would have left without me. The airline staff was not aware that to really prove my status (and ensure I did not show them some fake or self-generated website) they would have to use the share code via the website by inserting their position and reason for checking. It would require them to have unblocked access to the internet and willingness to go through the process as opposed to just glancing at the IDs and passports of other passengers. The process took 30 minutes as opposed to 15 seconds the check took for those who boarded with a physical card. In my case I was let on the plane because of the good will of the staff. I am a white middle aged male with fluent English and some knowledge of the UK-EU Brexit agreement. For many other people this experience would result in denied boarding." – November 2021*

*"I was nearly denied boarding to a transatlantic flight because the attendant did not understand or believe that the only way I had of proving my right to reside in the UK was through a website. A few minutes before the gate closed, when most people had boarded, they finally relented and let me through." – April 2022*

*"They then demanded to 'see your settled status', to which I replied in confusion that I have no physical document that proves my status for travel and that I don't believe I need it in order to board a flight to the UK. The staff insisted that I needed to find proof of my status because they 'don't have the machine to check it', but when I asked them what proof they required, they said they did not know. They*

*eventually found another passenger with the same status who told me that he had been let through after showing the home office confirmation letter (the one that explicitly states that it is not valid as proof of your status). I found this in my emails and was let through, however if I had not, then they said I would not be allowed to travel.” – May 2022*

*“Ryanair asked for my settled status when boarding a flight to the UK from [EU]. They were confused by the website and advised me to print it in future!! This was stressful and makes me worried for future flights, especially as I wasn't carrying my drivers licence if they had asked for further ID.” – June 2022*

*“Almost denied boarding with my [EU] ID card linked to EUSS by Easyjet. Luckily I had my third country passport (non EU non UK) as I have double citizenship EU and another country, and the gate agent let me go, else she wouldn't accept the digital status/share code.” – June 2022*

*“This never occurred to me but it happened yesterday: the possibility of being prevented from boarding a flight home from the EU to the UK due to badly trained check-in staff because I couldn't prove my right to enter the UK. I was boarding a domestic(!) flight to Athens with an onwards connection to UK. I was trying to check my luggage all the way to UK when the check-in lady noticed I was travelling to the UK on a EU passport. She then demanded (in a threatening manner) to see my entry permit to the UK because "things had changed with Brexit". I spent a minute or so with a racing heart and racing mind trying to think what I could possibly show to be let on the plane to Athens (I keep various screenshots on my phone that may have placated her, although of course they will all say somewhere that this is not official proof). She then conceded to not check through my luggage, so I would have to collect it in Athens and check it in again there so "they could check my documentation there" (even though I had already checked in online using the same passport details and already had an onwards boarding pass). Better trained staff at Athens airport did not ask any stupid questions, of course, but I found the experience quite harrowing.” – June 2022*

#### 4.8.2 Extra ID requested

221. In recent months we have been receiving more frequent reports of people being asked for extra identification at the boarding gate, even after they have successfully completed the check-in process and, where applicable, had their identity document checked by non-UK border control. We do not understand the reasons that are driving carriers to instigate this policy.
222. In the absence of any physical backup of EUSS status, many people simply do not carry documents that would constitute extra identification. This respondent had to struggle to persuade boarding staff to accept a credit card as identification, which was all they had with them.

*“I travelled with Ryanair from [EU city] to London with my [EU] passport. I have lived in the UK for over 30 years and have settled status. I was told I needed to provide additional ID at the boarding gate or would not be allowed to travel. All I had on me was a credit card which in the end they accepted. It was a very stressful and completely unexpected situation for me. It made me feel very stressed and very upset on my return journey home.” – May 2022*

223. Another respondent had just read a media article<sup>96</sup> about this and reported to us that they had recently experienced the same thing. They were lucky to have a driver's licence on them, but were very concerned about what was to them a new development:

*“I'm a [EU] citizen living in the U.K. for the past 27 years. I was coming back from [EU] on a business trip yesterday and the boarding personnel requested me to present an additional ID. It is the first time this has happened to me in the numerous journey I have taken in and out of the U.K. I did have my driver's license so did not have to plead my right to be on that flight but was very worried. I hope you can get to the bottom of this for all of us.” – Jun 2022*

<sup>96</sup> Independent (2022) - [93](#)



224. Some of the reports we received included admissions by the boarding staff that they were concerned about passports from certain countries being forged – there were explicit mentions of Austrian, Italian, Greek and French passports. Of particular concern in the first example is that a driving licence was not even deemed sufficient additional ID.

*“At Paris Orly airport, I was asked by a member of a security company before I was allowed to approach the check in desk. I hold an Austrian passport and have settled status. I was told that Austrian passports are the most forged passports and I therefore needed to show extra ID. When I showed my UK driving licence I was told that was not enough as I could have bought a forged driving licence, too. They asked me to demonstrate my settled status - which I can't. I was told I should have a print out of the email sent by the home office. This email clearly states that it is not to be used to demonstrate settled status. I was finally allowed to proceed when I produced my bank cards. I was also accused of lying to the security officer: she asked me where I lived in the UK and I replied [UK city]. My address is [...], which is a suburb of [UK city] no French person would have ever heard of. She accused me of lying to her about my address. The same security person checked my passport again at the boarding gate and again asked for extra ID. I probably should have questioned them why they were doing it but I was very unwell at the time and in a great amount of pain. It was really humiliating and I wonder on whose authority this was done. I have to add that I travel frequently between the UK and Europe for work and it has never happened before.” – June 2022*

*“While seated waiting to board at Barcelona back to UK, was approached by Ryanair staff and asked for additional ID. I kept being told they were doing random checks. I knew this wasn't true. I pushed and pushed and they finally admitted my nationality [Italian], amongst others [Greek, French] was being targeted. Wrong and baseless. My questions are: Why are certain nationalities being targeted? How are they chosen? Where is this policy from? Can we see it? What would happen if I didn't have another ID? Why did they say it was 'random' checks? When did these extra checks start?” – May 2022*

225. One respondent told us that when the airline demanded additional ID, they had an 'alert' on their system for them. We would want to know what causes a person to have an alert raised on them to provide additional ID at the boarding gate, especially when that person's identity document has already been checked by security officers at immigration control.

*“Travelling from Paris to Heathrow this morning with BA, I proceeded through immigration as normal and was waved through without any problems using my Polish passport. Then, right before the flight started boarding, I was called over to the check in desk by an announcement and told they 'had an alert on their system' that I need an additional form of ID. The desk employee kept repeating like a robot that it's on the system and she has to check for it. She refused to give me any explanation, said she didn't know why and was increasingly more rude about it. She was not immigration and clearly had no clue what she was asking for - she started by asking to see my residency card and seemed surprised when I told her I don't have one because I don't need one. Fortunately I did have my UK driving license on me and I didn't want to argue further so gave it to her.” – October 2022*

### 4.8.3 Allegations of discrimination

226. We have received an increasing number of reports of Romanian citizens being singled out for extra examination while they are still abroad, namely at the boarding gates. This would be in line with the findings by the ICIBI discussed in '4.7. Abroad, returning to the UK – facing UK juxtaposed border control'.

227. A recent FOI<sup>97</sup> gives data on the number of times a carrier has been required, at the carrier's expense, to remove an EEA or Swiss national who has been refused leave to enter when arriving in the UK. It shows that out of the approximately 9,700 such removal obligations between January 2021 and June 2022, 4,566 of these were for Romanian citizens. This represents 47% of all removal obligations for EEA/Swiss citizens. There were 1,457 (15%) removal obligations for Bulgarian citizens, with other nationalities forming between 0.03% (Malta, Iceland, Luxembourg and Slovenia) and 5.8% (Spain) of the removal obligations.
228. The combination of fact that these removal obligations fundamentally contradict the UK's information to carriers that they do not need to check EEA/Swiss citizens' immigration status, and the disproportionate removal costs for Romanian citizens, can go some way towards explaining the discriminatory behaviour faced by those with Romanian travel documents.
229. the3million's Communications Manager, Andreea Dumitrache, is Romanian, and was the only passenger pulled aside by Easyjet boarding staff in Spain for extra questioning. She later described her experience in a Metro article<sup>98</sup>. Her detailed report suggests that in this instance, Easyjet had singled her out because of her Romanian nationality, and were sensitive to Andreea highlighting this – letting her through with only a meaningless check after relaying Andreea's comment to someone else by telephone.

*"I checked in online for my flight. I arrived at the airport from Barcelona and waited at the gate for my passport and boarding pass to be checked. There were two attendants at the desk and when one woman looked at my passport and then at their screen, she passed it on to the other attendant and told her to take on the case, and then left. It looked like she hadn't dealt with whatever came up for them before, and she was in training. My nationality was mentioned at this point between the two women. The second woman then put in a phone call and told the person on the phone I was Romanian. The woman then asked me if I have another ID, in addition to my passport. She mentioned it could be a card or a drivers' licence. I asked her why she needed this, as I checked in with the passport she was holding. She didn't want to provide me with this information. I proceeded to give her two debit cards, both of which have my name on them. She looked at them and told the person on the phone I'd given them to her. She said it wasn't enough and she needed my drivers' licence or other photo ID. I told her I don't have a drivers' licence and I don't have my Romanian ID with me. I asked again why she needs additional ID when I have my passport. She said it's for them to decide if I live in the UK, that it's the rules with traveling to the UK now. She said a visa would be good for me to show to her. I told her I have indefinite leave to remain in the UK under the EU Settlement Scheme but carriers do not have to check for this, as EU citizens can still travel to the UK as visitors without a visa. I asked her to let me prove my immigration status, to show her my digital visa (settled status). I logged in the Home Office View and Prove system and showed her my immigration status. She got confused, was unfamiliar with the website and kept saying she doesn't need my passenger locator form. I told her it's not a PLF, it's my immigration status, which I can prove through the Home Office View & prove digital-only system. She told the person on the phone this. In the meantime, she started letting all the other passengers through and left me wondering what else I could do for her to let me board the plane. I got upset and asked her if she treats everyone like this, or only the Romanian people who board. It was becoming more obvious she wouldn't let me board the plane. I told her what I do for a living (I work for an organisation representing EU citizens in the UK). I showed her my photo on the3million website which has my job title on. She placed another call and told the person on the phone that I had said her additional checks were because I'm Romanian. Then she just asked me for my address (without giving me any justification for this and without her apparently having any way of knowing if the address I provided was accurate). I told her my address, she didn't check anything and she let me through." – June 2022*

<sup>97</sup> Home Office FOIA (November 2022) - [28](#)

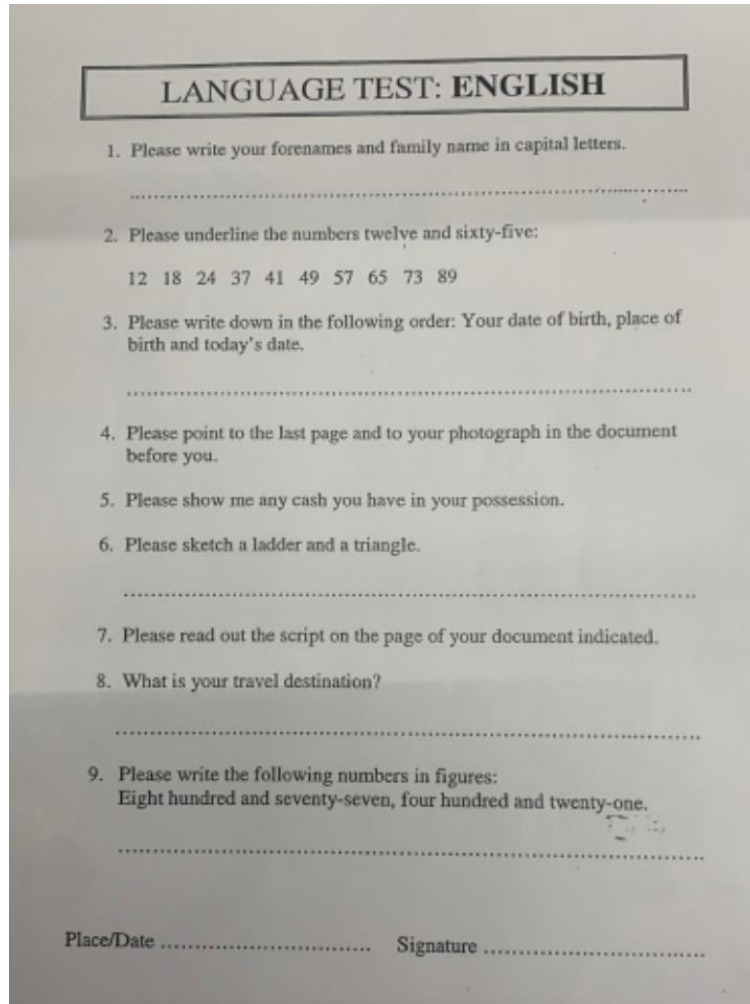
<sup>98</sup> Metro (2022) - [94](#)

230. Another Romanian respondent was denied boarding by a British Airways partner at a European airport, for not having a physical proof of their status, despite explaining repeatedly to the boarding staff that the status under the EU Settlement Scheme is digital only and showing their digital status on the online platform and offering up a share code. After lengthy distressing treatment at the airport, they were eventually rebooked onto a flight the following day but were not given any assistance with overnight accommodation or food costs. This left them suffering anxiety for several months after the incident.

*"I was singled out as the ONLY passenger who was denied boarding. All other EU and Swiss passengers were allowed to board with only their passports!" – September 2021*

231. Yet another Romanian citizen was issued with an English test by Easyjet boarding staff after they inspected her passport, before this test was hastily retrieved once they heard her speak English to her husband. The described interactions between the boarding staff again hints at nationality targeting. We do not understand what could lead Easyjet to create such a policy or indeed design such an English test, if it is not somehow related to pressure from the UK Home Office and fear of passengers being denied entry at the UK border.

*"I was boarding a delayed EasyJet flight from [EU country] to UK. My husband, British citizen and myself, Romanian passport had passed passport control, and had waited near the gate for 4 hours. 2 staff started the boarding process. I have both tickets on my phone, I scan my husband he shows his passport and then he goes on. I scan my ticket, the girl takes my passport and then hands it to the girl on the right. I'm told the following: " please complete this mandatory EasyJet form" and I'm handed a piece of paper - please see attached as I managed to take a photo of it. My husband as he walked away comes back and asks: "what you doing?" To which I reply: "wait 1 min I need to ask this lady what's this all about?" The girl who handed me the test said: "no need to complete this anymore as I can hear you speak good English" she then grabs the paper from my hand and gives me my passport back. I believe this is racism, I don't need to speak English if I enter an English speaking country same as nobody needs to speak Turkish when going to Turkey or Italian when they go to Italy etc" – May 2022*



- 232. When asked to comment on the issuing of tests and demands for extra ID (discussed in '4.8.2 Extra ID requested'), EasyJet “confirmed they have ‘been asked by the UK Border Force Immigration Enforcement International teams (IEI) to ask for additional ID or for a short language test to be completed’. The tests are a ‘measure to ensure all passengers’ documentation is valid with a view to reducing instances of fraudulent documentation’.”
- 233. We do not understand how completing an English language test can be related in any way to proving identity documentation is fraudulent or not. We do not understand the legal basis upon which it is valid to ask people to complete an English language test. We also do not understand the legal basis upon which passengers are selected for this extra scrutiny.
- 234. The charity Roma Support Group has found in its research that whereas both Romanian Roma and Polish Roma were questioned at the UK border, it was overwhelmingly the Romanian Roma clients who were subjected to questioning before boarding - which could potentially be related to the statistics discovered about carriers’ removal obligations as discussed in paragraph 228:

*Following anecdotal information received from its Roma clients as well as Roma advocates working for organisations supporting Roma, RSG launched a research to understand the current implications of the EUSS digital status and the practical problems Roma people are facing in relation to that. This work also included collecting evidence from Roma community members regarding their current UK-EU travelling experience. For that RSG has met and spoken in semi-structured focus group meetings to 2 different*

*groups of Roma: 11 people with Polish Roma background and 9 people with Romanian Roma background. The work also included a further 8 interviews including Romanian, Polish and Slovak Roma. While RSG is still analysing the data, some preliminary findings are indicating distinct experiences Polish Roma have compared to Romanian Roma while they are travelling to or out of the UK. Both groups mentioned that travelling, especially back to the UK, became more difficult, both emotionally but also in practical terms since the end of the grace period. Both groups mentioned being questioned or asked to confirm their immigration status, but less in the case of Polish Roma. The different patterns identified show that Polish Roma are usually asked of their immigration status at the UK border, while Romanian Roma reported being questioned of their EUSS both in Romania and also at the UK border when travelling towards the UK.*

*Both groups, in their vast majority, reported not being aware of their digital EUSS account, and therefore having difficulties confirming their EUSS status at the border. The Polish Roma group have mentioned that they usually carry printed copies of the confirmation emails received from the Home Office and all reported this as working when being asked to confirm status at the UK border.*

*The situation is much more different for Romanian Roma. While some Roma are aware they have received a confirmation email from the Home Office, the vast majority of them are not able to identify the right email and show it before boarding a plane or at the border staff. And usually Romanian Roma would not carry a printed EUSS confirmation letter either because they can't access it or because they are not aware of it. This transcribes into situations where they are not permitted to board their flights by the carrier or being held at the UK border for hours until they can confirm their EUSS status. One of the Romanian Roma interviewed reported going through both types of problem. On one occasion the carrier did not permit her to board the flight to London as she could not confirm her EUSS status. On another occasion she spent 3 hours at Luton Airport because she could not confirm her EUSS. This is an illiterate person who knew of the EUSS confirmation email being saved on the mobile phone but could not access it because of this barrier. Border staff refused to check the phone themselves despite the person asking them to do so." - November 2022, Mihai Bica at Roma Support Group*

- 235. We echo the ICIBI's recommendation<sup>99</sup> that the Home Office should conduct and publish a review to ascertain on what grounds particular nationalities are being subjected to a greater level of scrutiny than others at borders – including by immigration control in the UK and abroad and by carriers abroad.**
- 236. Furthermore, we would ask that the Home Office clarifies the legal basis and policy upon which certain passengers are selected for alerting carriers to ask those passengers for additional id and/or other additional checks such as completing a language test.**
- 237. We have serious concerns about people being discriminated against on the basis of their race and nationality. Careful analysis via an inquiry should be conducted to establish whether borders are being managed in a way that runs contrary to the Withdrawal Agreement and equality legislation.**

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<sup>99</sup> Recommendation 3 - Independent Chief Inspector of Borders and Immigration (2022) - [77](#)

#### 4.9 Entering the UK – using the eGates

238. EEA/Swiss citizens are among the cohorts of people who are eligible to use e-Gates when they arrive in the UK<sup>100</sup>, with some exceptions<sup>101</sup>. However, for some people this does not work, and they may be directed to a UK Border Officer instead, for questioning. It is not clear why some people are rejected by the eGates – even when a Border Force Officer confirms that their passport shows their status as in the following report:

*“I arrived at Heathrow terminal 2 yesterday. I used the e-Gates at passport control with my [EU] passport. Not all gates seemed to work equally well so when my passport didn’t work in one after three times, I was asked to try another, and another. I then insisted on going through the manual check rather than to try again. There the officer asked me what I was doing in the UK. I said I was coming home. He then asked if I’d applied for that thing that EU foreigners had to apply for and if I was sure it had been granted. I said yes, and yes. He asked again if it had been granted. I said yes. Then he scanned my passport and said that yes it had, he could see it. Then he joked and said the e-Gates might not have worked because “we don’t want you here!”. I took it as a joke but it was actually quite offensive. It has left me feeling unwelcome.” – September 2021*

239. Another respondent however, tells us that the Border Force Officer could not see the status on their systems, and had to take over an hour to check in their backend systems:

*“Arrived at Heathrow airport. E-gates did not work. I went to border force. Officer did not find my status. Even though my passport is linked to my PSS. Officer asked all sort of questions like why I am in UK and how long I will live in UK. I told officer that I live here. Then Officer asked me to show email from HO with PDF which says that it’s not a proof. Then officer went in backend system to check and came after 1 hour and found my status. It was humiliating to wait for 1 hour even though I legally live here in UK. My family was waiting outside for 1 hour and wondering what’s going on.” – January 2022*

240. The National Audit Office [NAO] published a report in December 2020 entitled ‘Digital services at the border’<sup>102</sup>. It contains a figure<sup>103</sup> which we reproduce below:

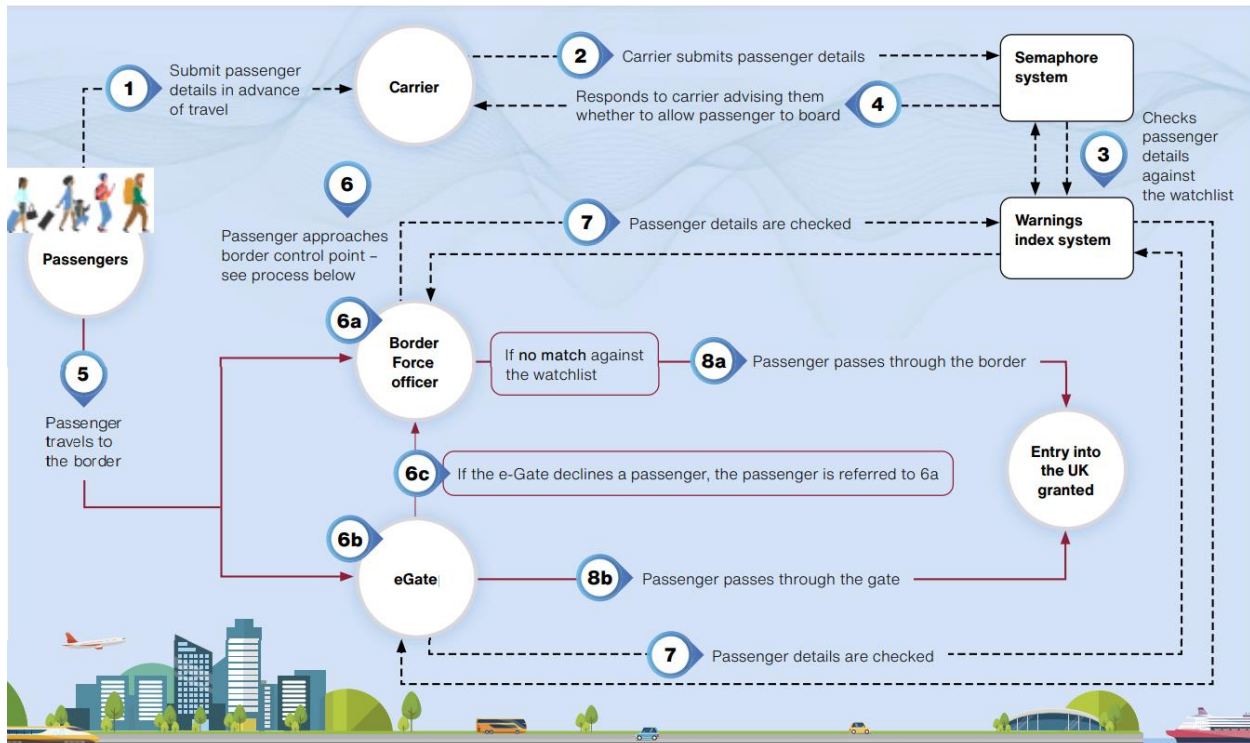
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<sup>100</sup> Gov.UK Guidance (2021) - [41](#)

<sup>101</sup> See ‘Use of eGates’ v5.0 14 April 2022, page 19 of PDF at Gov.UK Guidance (2022) - [59](#)

<sup>102</sup> National Audit Office (2020) - [80](#)

<sup>103</sup> Ibid., Figure 3, page 17



241. This diagram sets out that at the time of the NAO report, carriers submit advance passenger details to a system called Semaphore, which communicates with the Warnings Index system. When the passenger arrives in the UK and uses an eGate, the eGate reads passenger details. As well as doing a facial check, it checks passenger details against the Warnings Index system.
242. The Digital Services at the Border [DSAB] project intended to replace the legacy systems Warnings Index and Semaphore (which are respectively 26 and 16 years old) with new systems including a system called Border Crossing. The Home Office “considers these legacy systems increasingly expensive, difficult to maintain and unfit for the future needs of government.” The NAO report examines DSAB to assess whether it has delivered value for money. It makes clear that the Home Office has delayed the programme by 3 years, from March 2019 to March 2022, and reduced its scope.

243. The House of Commons Public Accounts Committee published a report into Digital Services at the Border [DSAB]<sup>104</sup> in March 2021. It is extremely critical of the Home Office and DSAB, writing in its summary about the repeated delays, and the problems encountered by the introduction of Border Crossing: *“The Home Office (the Department) has presided over a litany of failure in nearly 20 years of non-delivery of digital border programmes, with significant delays introducing additional costs to taxpayers, continued dependency on contractors to maintain legacy programmes, and delayed delivery of benefits to Border Force officers, other users and passengers. [...] Following the 2011 abandonment of the e-borders programme which it began in 2003 and despite assurances from numerous senior Departmental officials over the years, the Department has now delayed delivery of its original objective of improved information at the border by a further three years, with little demonstrable lesson learning. [...] The Department failed to deliver the DSAB programme by the March 2019 target it originally planned, with delays so far costing £173 million. It has since reset with a reduced scope and a plan to deliver three years later, pushing delivery back to the end of March 2022. It started its latest roll out of the Border Crossing part of the programme in December 2020, but Border Crossing is so far being used by only 300 staff, well short of the 7,000 who should be using the system by June 2021 and previous attempts to roll out Border Crossing experienced technical difficulties.”*
244. In July 2022, the Government published a strategy statement ‘New Plan for Immigration: legal migration and border control’<sup>105</sup>. Paragraph 69 of this report states the rollout of Border Crossing was completed by June 2021, and rolled out across eGates by October 2021: *“National roll-out of new Border Crossing (BX) technology which provides BFOs with greater access to a passenger’s information was completed, on schedule, by June 2021. In response to COVID, the roll out of BX across eGates was brought forward and completed six months early by October 2021, to enable the automation of the Passenger Locator Form (PLF) checks. Over 28 million passengers were successfully processed using BX in the first year of operations.”*
245. Although DSAB was supposed to be completed in March 2022, a statement published in September 2022<sup>106</sup> confirms that it has been delayed yet further, for reasons including greater than included complexity
- “Nevertheless, delivery has extended beyond April 2022 due to factors including:*
- *Greater than anticipated complexity in the solution;*
  - *The need to deliver Passenger Locator Forms as part of the COVID health measures at the border;*
  - *Difficulties retaining skilled resources when the private sector is more lucrative; and*
  - *Initial disruption to development due to COVID.”*
246. The expected completion date is now early 2023: *“Although completion of the programme is taking longer than anticipated, delivery is now in the closing stages and DSAB is expected to enter its closure stage in early 2023.”*

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<sup>104</sup> House of Commons Public Accounts Committee (2021) - [82](#)

<sup>105</sup> Gov.UK Policy paper (2022) - [68](#)

<sup>106</sup> Gov.UK (2022) - [69](#)



247. We are not clear what the currently functionality of an eGate is. Specifically we do not know what would cause an individual to be added to the systems that trigger an eGate not to open for a passenger. We are not clear whether these systems are intended only for people who must be refused entry to the UK for security reasons, or whether it for example would also include a person travelling on an EEA/Swiss passport without linked EUSS status. However, given that EEA/Swiss visitors can use eGates, we do not know how the system would distinguish a visitor (without EUSS status) from a UK resident (using a passport apparently not linked to EUSS). It is not clear whether this is determined by advanced passenger information, or perhaps by travel patterns. Alternatively, perhaps current systems do not have the functionality to check this, and those who fail to pass through eGates have a passport with a faulty chip or are facing faulty eGates.
248. We have however received many reports from people who state that they are unable to pass through eGates. We report some examples below:

*“On the 3rd of September I returned to the UK from Malaga-Spain to Manchester. For some strange reason, I couldn't get through the e-gates and an officer had to scan my passport and was going round and round in circles and asking me a lot of questions. I indicated that I had settled status and the officer asked me for evidence. I had to look through my emails until I found the notification, luckily I hadn't deleted it. In the end she asked me if I was sure if my passport was updated in their system and I said yes, but she didn't believe me because she told me to check it again at home. And yes, everything was indeed in order on my side. It left me little confidence in the government system.” – September 2021*

*“I got married in October 2021 and changed my surname. I filled out a form to update my details on UKVI website in November 2021, but my status still has not been updated and is still linked to the old passport. This persists for over a year. I have called the EU resolution centre phonenumber multiple times, but they offered no help. Every time they say someone will call me back, but nobody ever has. This causes issues when entering the UK as there is no status linked to my current document. Border guards manage to find my status using old documents, but this takes extra time and it is stressful. They've also advised me "to update my documents on the website" which is rather patronising as I have done it immediately after getting new document - it is not my fault the system has not been updated for over a year. I find travelling to visit my family rather stressful because of it.” – November 2022*

*“Submitted new passport (with new surname following marriage) to HO in November 2019. Received passport 3 weeks later with the note that they will email once the digital status has been updated. Followed up since March on a monthly basis. No call-agent offers any ability to the solution of the problem other than "it has now been passed to the relevant team". I am frustrated as I have to travel a lot for my job and get pulled out by Border Force every time returning to the UK. This is giving me uncertainty about building my life further in the UK.” – May 2022*

*“My French Passport is not working on automatic gate (arrivals to UK). Have to face a immigration officer each time. Questions are inappropriate: where do I work, what do I do for a living, how much do I make monthly” – June 2022*

249. These incidents are extremely important warnings about the scale of problems people will face once the ‘Universal Permission to Travel’ is implemented, and these checks are pushed further upstream to the check-in process abroad. This will be discussed in *Chapter 5. Future changes affecting travel.*

**250. *The Home Office should investigate and set out the circumstances in which a passenger’s passport is not accepted by eGates other than those relating to the UK’s security, to improve the understanding of problems that will be encountered once these checks occur at check-in abroad rather than on arrival in the UK. The IMA should monitor the guidance available on the Border Force guidance platform ‘Ocelot’<sup>107</sup>, to ensure this appropriately protects the rights of Withdrawal Agreement beneficiaries to enter the UK.***

#### 4.10 Entering the UK – facing Border Force officers

251. In February 2021, evidence given to the Public Accounts Committee<sup>108</sup> suggests that at that time, Border Force Officers [BFOs] were not yet able to determine at the front desk whether someone has EUSS status, and instead they “*would have to go from the front desk into the back office to check the systems to do that.*”
252. Even though the expected completion date of the DSAB project has now been extended to ‘early 2023’, we assume that by June 2021 BFOs were able to see people’s EUSS status at the front desk. As quoted in paragraph 244: “*National roll-out of new Border Crossing (BX) technology which provides BFOs with greater access to a passenger’s information was completed, on schedule, by June 2021.*”
253. The Government’s vision has been to move a lot of border compliance further ‘upstream’. See for example the ‘2025 UK Border Strategy’<sup>109</sup> published in December 2020 which describes as its Transformation 4: “*Use upstream compliance to move processes away from the actual frontier where appropriate, both for passengers and traders.*”
254. Within this Transformation, the section “*Introduce an Electronic Travel Authorisation scheme as part of a wider universal ‘permission to travel’ requirement*” goes on to explain “*As part of our phased delivery to 2025, the UK government has committed to introducing a universal ‘permission to travel’ requirement which will require everyone wishing to travel to the UK (except British and Irish citizens) to seek permission in advance of travel. We will use the information provided to facilitate the passage of legitimate passengers whilst keeping threats away from the UK border.*”
255. As will be discussed in detail in *Chapter 5. Future changes affecting travel*, we have huge concerns over the implications of this on the cohort we represent. In this section however, we will go on to describe problems at the UK Border because these are indicators of what we believe will cause massive problems when these processes have been pushed upstream. A citizen with EUSS status has a far greater chance of being allowed to enter the UK once already arrived in the UK despite a lengthy interview with a BFO, or even temporary detention while back end systems are checked, than of being able to persuade a carrier to let them board while still abroad.
256. We therefore present the reported problems at the UK Border grouped as follows:
- Apparent lack of knowledge by BFO
  - Identity document linked to EUSS status but BFO cannot see it

<sup>107</sup> Gov.UK Policy paper (2022) - [73](#)

<sup>108</sup> Q19 – House of Commons Public Accounts Committee (2021) - [81](#)

<sup>109</sup> Gov.UK Policy paper (2020) - [38](#)

- Problems caused by UKVI account maintenance
- Problems caused by multiple Home Office applications
- Automated systems not working for an individual
- Automated systems unavailable for everyone

#### 4.10.1 Apparent lack of knowledge by BFO

257. Even though View & Prove has been in existence since late 2018, we received reports of UK BFOs seemingly not knowing anything about it. As evidenced in earlier chapters, many carriers abroad do not understand the UK's digital-only status but in theory they were not required to engage with it. It is unacceptable however for BFOs not to know about the digital-only nature of an immigration status affecting millions of EEA/Swiss citizens resident in the UK, as illustrated by the following example from February 2021:

*"I am a Portuguese national living in the UK for 8 years. I do have the Settled Status although not needed until June 2021. I left the UK for a week, and when I came back in January, I was challenged by the Border Force for the first time to prove why I was entering the UK. I said I live in the UK and I was going to work the next day. He asked for a proof of residence which I didn't know how to provide. I said I can ring my employer, or access my house contract in PDF, or even my get my Settled Status. The officer preferred the Settled Status, so I presented him the code I generated one week before. He didn't know what that was and wanted to see the paper of the settled status. Luckily I did print it before but I told him he should use the code instead according to the instructions. He simply didn't know what the code was for. After more random questions about what I was doing, when I came to the UK, how long ago did I do the settled status, he decided to let me go, despite not looking convinced of any of my answers. This was done in a corridor where they were asking the passport and the officers had no computer to confirm any of the answers (or able to put the code anywhere)." – February 2021*

258. These examples continue through into 2022, we have heard of many cases where BFOs demand to see the PDF attachment to the original decision email. Given that this decision letter specifically states *"This letter is not proof of your status in the UK. Your status is linked to the passport national identity card that was used to apply for the scheme."*<sup>110</sup>, it is not a reasonable requirement to demand an email on the spot from people. For many, this email was received almost four years ago, and would be extremely difficult to retrieve from a mobile phone at the point of being interrogated by a BFO. Some have taken the precaution of printing out, due to the media coverage of people being stopped at the border.

*"A UK Border Force officer refused to take my share code and asked me to provide him with the email proving that I had obtained a "settled Status". Held for over 30 minutes at the Border. Frustrating and stressful." – August 2021*

*"I was asked at the Eurotunnel border in Calais when coming back to the UK to prove my settled status by showing them the email I got when I applied which was more than two years ago. When I said that I didn't have the email but that my passport should be registered on their system the guard got very angry and started shouting that it was up to me to prove my immigration status and that I was using excuses." – August 2021*

*"Arriving back into Gatwick airport yesterday, at border control after I told the officer I had been living in the UK for 10 years and had settled status she straightaway asked me for my letter confirming that*

<sup>110</sup> Wording has changed over time – this is an example from a decision PDF dated January 2019

*status. There was no mention of not being able to see my status at all on the system, she just asked me for the letter straight up. You know, the letter that specifically states it's not valid as proof of my status.”*  
– September 2021

*“On arrival at Farnborough Airport last month, I ended up in a lengthy discussion with a Border Force Official who demanded that my daughter and I show our Settled Status card to prove we have settled status in the UK. Despite repeated explanations that it is a digital system, that there is no physical card etc etc, the official kept repeating that she absolutely had to see my card. After endless back and forth (in front of my daughter, not ideal either), the official settled for the letter hastily found on my phone about being granted settled status, and which included the explanation of sharing codes. All in all, a very unpleasant experience (which almost made me turn back). I felt very uncomfortable with this experience. This was yet another time I felt unwelcome in the country I was supposed to call home.”* – September 2021

*“We took the Eurostar from Paris in January. We passed through the French and British customs at Gare du Nord. My husband had no problems. When my turn came soon after his, I got stuck at the British customs. He demanded to see a printout of my settled status. I told him that there is no such printout as settled status only exists in digital format in the Home Office and is available to customs officials in their computers. The customs official said to me: ““You are making this very difficult, madam.”” I told him that I would need to inform my husband who had passed the customs about a minute or two before me and was waiting for me just after the customs booth. I said my husband would contact the embassy and get the situation sorted. The customs official immediately backed down, said that it was OK, and let me pass.”* – January 2022

259. We also receive reports from people about BFOs who do not understand the rules about entering the UK with a national identity card. In the case of the first report, the respondent was wrongly issued with a stamp saying he was not allowed to work or have recourse to public funds – even though he had pre-settled status.

*““I’m Italian citizen living in the UK with pre-settled status. In February 2022, I was returning from a family visit abroad. I had the information that EU members residents in the UK would be allowed to enter the country with the ID card + confirmation of Settle/pre-settle status (the code gov.UK provides) until 2025 if they don’t have a passport. Since I didn’t have my Italian passport, I gathered all documents required, but when I got to the UK Border Control, they refused to accept my ID and Pre-Settle status and almost blocked me from entering saying ““[the law] it has changed”” and that only with an Italian passport I would be allowed to enter the UK. Eventually, after I waited for an hour, they said I was cleared to enter but first they would need to get all my personal information (and take a photo of me), and this is now my “first strike”, i.e. it’s on my record, and next time I would not be allowed to enter without a passport.”* – Jun 2022

*“I used my German ID card to travel and upon entry to the UK the border guard denied me access despite my explaining to him that I was still entitled to use my ID card as it was linked to my settled status. He told me, very rudely, that nobody was allowed to travel on an ID card any longer and that should I try again I would be refused entry to the UK. After quite a lot of arguing he ‘allowed’ me to enter the UK. It was a horrible experience. Border guards surely should know that I am still legally entitled to enter the country using my ID. The experience was humiliating and made me feel unwelcome.”* – October 2022

260. There has been a great deal of misunderstanding around the documents required by non-EU family members with EUSS status in order to board a carrier abroad, including over whether they can rely on their digital status if they do not have their BRC (see section 4.5.6), and whether their valid EEA BRCs should be accepted for boarding (see section 4.5.7).

261. We have, however also received reports of problems at the border. Note that more recent status outcome letters say “*You should ensure that you update your online status with all valid travel documents (such as passports or national identity cards) that you hold and intend to use for travel, to avoid any unnecessary delays at the border.*” However, earlier status outcome letters (we have seen one of December 2019) do not say this at all, instead saying “*There are no changes for when you come back into the UK after travelling.*” Therefore many non-EU family members would be justified in thinking they can enter the UK by showing their valid BRC. Over 2.4 million grants of status had been made by December 2019, over 140,000 of these were to non-EEA nationals.

*“I am a Non EU spouse of an EU national. I have settled status based on the EU Settlement Scheme and a UK issued Biometric Residence Card stating I have Permanent Residence valid until 2028. I had problems proving my settled status when at the UK border when returning into the country. My EU settled status was not linked to my passport as I applied to the EU Settlement Scheme using my UK issued Biometric Residence Card. The border officer said that my UK issued Biometric Residence Card would not be valid from 30 June 2021 although it clearly states that it is valid until 2028. I had to bring up the email with my confirmation letter of the outcome of my EU Settlement Scheme which says I have been granted settled status but clearly states in bold that the letter was not proof of my status. The Border officer finally accepts the email confirmation letter taking down the reference number. This was a huge inconvenience at the border. The time we spent with the border officer, was the same time it took to process half of our whole plane.” – June 2021*

- 262. As also identified in our August 2021 report to the IMA<sup>111</sup>, the Home Office must provide evidence that sufficient training is given to UK Border Force officials, and that performance is monitored to ensure that people with the right to enter the UK are treated properly.**

#### **4.10.2 Identity document linked to EUSS status but BFO cannot see it**

263. As explained in earlier sections (paragraph 251), the Home Office testified at a Public Accounts Committee hearing in February 2021 that at that time, BFOs were not yet able to determine at the front desk whether someone has EUSS status. We understand however that by June 2021, BFOs were able to see someone’s status from their identity document (paragraph 252).
264. However, even beyond June 2021 we have continued to receive reports from people who did have status linked to their identity document, but where the BFO was not able to see that status. For example:

*“Police at the airport wouldn’t let my seven-year-old son come into the UK because his settlement status is not available online for them (border police) to check. Me and my wife were able to show proof of our settlement status. Police only allowed my son to come in the UK after I showed the email we received by UK government proving that we applied for him. If we could have the same system used to prove our vaccination/test status, would be very helpful.” – March 2022*

*“We arrived yesterday at Luton airport. 11pm, two tired children and me waited for passport control. The girls handed over their passports, excited to see their dad, who was waiting for us in the car park. The border agent asked me why are we here. I told him I live in UK since 2007. He told me my girls’ settlement status were not showing in the system. I was very confused as I remember linking their settlement status to their new passports in 2020. I told him I did it, I know it needs to be updated when changing passports. He said he can let the girls go with me but they would not be entitled to public funds such as school. These girls were born in London and lived here all their lives. This is their home. I finally managed to find the original email stating my eldest’s settlement status and we were allowed to pass.*

<sup>111</sup> Page 36, the3million (2021) - [13](#)

*When we arrived home I also found the emails from gov.uk stating that their details were updated. Because in fact, I did link their passports to their settlement status in 2020." – June 2022*

*"Border Force officer told me, with rude manners, that my settled status wasn't associated to my current passport. This happened while entering the UK. That wasn't true, as I had updated it more than 6 months before and I was able to verify it right after entering. Finally, with a condescending stare, he said: OK, OK, you can go." – August 2022*

265. There continue to be issues around some countries' national identity card numbering systems, where perhaps due to manual input by the Home Office with paper applications, or with identity document updates, the incorrect number is linked to the UKVI account. This leads to BFOs not being able to see the EUSS status attached to the national id card when scanned at the front desk.

*"Upon arrival to the UK, the Borders Agency officer could not, with my ID card, locate my record. After some delay the officer confessed he could not find my file and asked me to change the record from my ID card to my passport. From previous experience, the login requires ID cards from Portugal to have the check digit included as part of the ID number, and I've heard that from the access support team. Apparently this is not just Portuguese ID Cards, also Spanish." – February 2022*

*"Since I renewed my [Spanish] DNI they do not recognise me at the border despite spending six hours on the phone to get the details of my 'account' at emigration, which are not those of the DNI but a number underneath. I scanned the new document and received a note that it had been received and a month later that my UKVI is up to date. Twice now in October and November I have spent 10 minutes at emigration saying that I have lived here since 2006 and received settled status in 2020. I don't exist in their machines. Each time I go to visit my sick 94-year-old mother these trips I have this problem. I feel constant humiliation by becoming a second -class citizen without rights" – November 2021*

*"I have my settled status linked to my [Spanish] ID card, the border officer at Birmingham airport disagreed with me about which number on the ID card was the right one to use for checking my status. At the end she checked my letter confirming settled status because she didn't want to use the ID number which I told her was linked to my status. This caused a lot of stress as I thought the border office would not allow me and my 2 years old in the country when she could not access my status." – August 2021*

*"Arrived to Heathrow from [EU country] with my British-[EU] child and after queuing for over 1.5 hrs the border officer asked me to prove my EUSS, which was granted in July 2021. I was kind of prepared because a lot of friends had the same issue on returning to the UK, so I saved the letter in my phone, which states, 'this is not proof of status'. I don't know what I would have done if there was no reception. The officer said he needed to see the letter because the status doesn't show on my passport. It felt like an unnecessary hassle. If they want to see a paper form, why don't they accept the letter. I know pdf documents can be created/amended easily, so if the country really wants to make sure to filter people without EUSS, they just need to do their digital work. In the absence of that it felt like an unnecessary waste of time." – September 2021*

266. Some of these reports also include accounts of rude treatment of passengers by BFOs, all adding to the continuing deep frustration and anger that people feel due to not having any form of physical proof of their status as backup.

*"I took the Eurostar back on Friday last week with the passport attached to my settled status. I was asked at the border if I was living in the UK, if I have settled status, when I got settled status. Then the border agent said that the information on my passport was not up to date. I asked what was not up to date and how I could update it to which he replied "you are wasting your time and my time next time update your document so that I won't have to ask all these questions or you won't be allowed in the UK" and he let me through the border. While waiting for my train I checked my status on gov.uk and everything seemed fine. I really wanted to scream if HO would provide us with a physical proof of our settled status, I wouldn't waste his precious time!!! I now feel stressed to travel abroad, I feel very*

*insecure about this status and my rights in the future to the point that I have spent a fortune to get myself and my 3 kids the British Citizenship, I just sent my application last month.” - August 2021*

267. We have had a very large number of reports from people who at some point in the past were able to see their online status, but who are now blocked from seeing it, receiving errors such as “*The details entered don’t match our records*”. Many of those respondents write to us because of the effect of this on their ability to prove their right to work or rent. The following report shows that it is likely that if a status holder cannot see their status, then a BFO cannot either, which is hugely concerning. The lack of ability to fix these issues promptly exacerbates this.

*“I used to be able to log in and see my son’s [settled] status. Now we can no longer log on to my sons account and they couldn’t find his approved settlement at border control at Eurotunnel. We called the Resolution Centre 3 weeks ago, nothing done. Called today, told me I waited for only 3 weeks and I need to wait longer...” – September 2022*

#### **4.10.3 Problems caused by UKVI account maintenance**

268. When people renew their passport or national identity card, they should update their UKVI account so that their new identity document is linked to their EUSS status. However, as described in extensive detail in our March 2022 report ‘*Challenges around maintenance of UKVI account*’<sup>112</sup>, this process is highly problematic.
269. Many are required to send their identity document to the Home Office by post. Others can use an online process, but the change does not take effect immediately and indeed can be subject to extremely lengthy delays.
270. The Home Office state in their guidance<sup>113</sup> “*If you have told us of a new document but are still awaiting confirmation that your account has been updated, you should carry your old document as well.*” However, for many people this is not an option because their old document is retained by their embassy or consulate when applying for a new document. However, once this check is pushed upstream as is planned in the near future, this fallback option will not work, as people will not be able to check in online with an expired travel document.
271. To some extent, because BFOs can use their back-office systems to find someone’s status, the impact on many people (whose identity document update is still pending) entering at the UK border is mainly one of suffering delays. The current UKVI identity document update process is simply not fit for purpose and is fundamentally incompatible with planned future changes when these checks will take place abroad instead, and will likely result in denial of boarding.
272. The following report shows that even several months after an update, BFOs were not able to see the EUSS status from the passport.

*“When I travelled back to UK airport from Spain in June and went through the border control I showed my passport and my EUSS wasn’t showing. However, I had it [the letter] ready to show at the border in case anything would go wrong. I updated my passport after my settled status was granted. But it was a few months earlier. This shouldn’t have happened. What would have happened if I’d have run out of battery or if I didn’t have connection.” – September 2021*

*“I have settled status. I now have a new EU passport and changed the new passport number in the home office system in autumn 2021. When I cross the border two officers said in the past two months that they*

<sup>112</sup> the3million (2022) - [15](#)

<sup>113</sup> Gov.UK (2022) - [62](#)

*do not see my status in their system and they do not know what my status is. The officer asked 'What are you doing here?' and when I said 'Well, I live here?' and he answered 'I don't see your status', I got anxious and upset because I knew the letter the home office sent out is no 'proof'. It also made me feel as if Britain is not my home. I ended up convincing them but am not sure I will always be that lucky. I'd just like to have a visa stamp in my passport as it's the case elsewhere. I'd also like the home office to immediately update our data in their system if we comply with their rules and update our data once our passports expire." – January 2022*

273. Some respondents are really struggling with the update process, like this person who wants to update their young child's UKVI status but cannot even access the status, or get through to the Home Office resolution centre to get help.

*"Recently, I tried to view my daughters status to update her passport details but was unable to access it. I tried calling but the answer was that the phone lines are too busy and that call is disconnected. I got through on IT department phone number to report this technical issue, they said they will call shortly to fix it but no one has called since few weeks already. I am still unable to view the status and had problems travelling with my 6 year old daughter as home office system doesn't show her status due to different passport details. I don't have old passport details to access the status anyway. So I am not sure what to do. I feel scared for my kids who both have never been living in another country other than the UK but I couldn't prove their status and now I can't even apply for settled status because I can't access their accounts and I can't resolve this issue because there is no phone line to call. Every time I call my call is disconnected." - September 2021*

274. Some are told their update is successful, and then find they can't access their status anymore and start having problems at the border.

*"After my daughter's Childs Passport expired, she got a new one. I applied to change the ID document for the new one. I received a confirmation email that the update was successful in September. Since then I can't access her status. On our travel back to UK in October the Immigration Officer could not locate her status at the border. When we failed to log in, we called the prompted helpline. We were promised a call back, but nothing happened. Weeks later we haven't had any response and problem is unresolved." – November 2021*

275. There also seems to be widespread confusion around the ability to link more than one identity document to a UKVI account. We described in our March 2022 report, in the section "Confusion around the ability to add new identity documents", how even some Resolution Centre staff did not know that it is possible to do so. It appears that some BFOs are similarly unaware of the ability to link multiple documents to the UKVI account.

*"I arrived at Stansted last night. I presented my ID card to the Border Force Officer. She reported they could not find my ID card on the system. I said I am positive it is registered and she then raised it with a couple of colleagues that were sitting in the background. Eventually they found my passport registered. I said multiple documents could be registered. When I stated that their system is broken and I also had a reply to a complaint confirming that that ID card had been registered, they kept saying that was not possible, that their system would be correct. I stated I had no interest in trying to argue and resolve the case there, I will raise or reopen the relevant complaint. They let me through." – August 2022*

276. It is an urgent requirement to allow people to easily see a list of all identity documents successfully attached to their UKVI account. Currently people can only log in with the latest identity document linked to their account, and they have no way of reassuring themselves that other identity documents are also still linked. This was raised in our March 2022 IMA report on the challenges of maintaining status.



#### 4.10.4 Problems caused by multiple Home Office applications

277. As described in detail in our March 2022 IMA report (*Chapter 8. Change of immigration status*), many people encounter problems when they have more than one application in the system. This could be for example a status outside the EUSS switching to an EUSS status, an upgrade from pre-settled status to settled status, or a new application following a refusal. In each of these cases it is not necessarily clear what status will be seen when people log in to View & Prove, or what a BFO will see when they scan the citizens' identity document.
278. Coupled with the very complex rules around who can travel with a pending application, this caused problems for this respondent whose document showed a pending settled status rather than the existing pre-settled status.

*"I have got pre settled status but as I had applied for settled status afterwards, the passport control officers couldn't prove either of my status as it showed as "pending for a result" but it never showed them that I have also got pre settled status granted and only waiting for "settled". My British husband and British 2 year old son had to wait at 1 am with me to the one side, unable to go through. The passport control officers didn't ask me for the letter of confirmation or anything as the passport was linked to my application and it was "pending". We had to wait late at night with my 2 year old son for no reason. Every passenger had left the airport by the time I got the documents checked somewhere else."*  
– April 2022

279. In this person's case, a refusal of settled status (for not supplying additional evidence in time) while their pre-settled status was still valid is causing problems when they want to enter the UK.

*"I have an ongoing pre-settled status that hasn't run out yet and I have recently applied again in order to receive a full settled status. However, because of family matters and some changes in life in general I wasn't quick enough to submit all additional documentation to home office. This resulted in a refusal of my settled status but I still have my pre-settled as well. Now each time I'm on the border the officers start from the point of me having no right of entry and they are very confused. It looks like it will be a problem in the future as I always have to see an officer because the system is blocking me from entry. I also spoke to home offices' department that gives advice to EU citizens with pre-settled and settled status and they basically told me that I have every right to enter as long as my pre-settled still hasn't expired but they can't do anything to resolve this problem and I should be ready to always have to speak to officers at the border."* – September 2022

280. The3million wrote to the Home Office in May 2022 about the problems that can be caused by having multiple applications. The Home Office replied in November<sup>114</sup> and although the letter concedes that changes are required, it is disappointing to read that while "*a project to enable the display of multiple immigration statuses side by side*" on their online services is underway, it is only in "*the early technology research and design stages*". The letter goes on to say that the Home Office "*do not yet have a timetable to implement multiple immigration statuses*".

#### 4.10.5 IT glitches affecting an individual

281. Whilst IT glitches can happen in any system where human interaction is possible, it is essential that any such problem is corrected immediately once discovered as it obviously prevents someone from accessing their rights.

<sup>114</sup> the3million and Home Office (2022) - [11](#)

282. This respondent upgraded from pre-settled to settled status with the same identity document, however a caseworker error means one status is linked to the correct identity document number, and another is linked to the incorrect number (because the letter O and the number 0 got confused). This means that any automated identity document scan (or future online check-in process) would show the incorrect status which will expire within the next few years.

*"It took almost 4 months to give me settled status from pre settled. When I log in online to view, it's still showing 'pre-settled'. When I called them, person telling me he sees it as 'settled' then I shared code and then he confirmed to see Pre settled mentioned there, saying he also found this weird and will ask other department. Now I also wrote them about this, as this is giving unnecessary stress, to which they replied acting like I don't know how to log in, telling me I used passport with Pre settled application and used national id with settled status and I should use national id. Well I clearly told them before, that I am using my national id and getting pre settled showing up (as at a time it's only possible to view status with your latest document which one adds to it). I had to call them again and again, which takes long time until you actually get someone on call. Eventually the EU Resolution Centre found where the fault was. When I applied for Pre-Settled and then now for Settled status, some case worker had changed one digit from my National ID card, as to before it was used as O, and now they put 0 instead. So I was informed the previous status (Pre-Settled) will stay viewable if and when I use O in my national ID card checking my status. But I can now use with 0 and it does show my status as 'Settled Status'." – August 2022*

283. The following respondent explained to us when we spoke to her, that a Home Office Scanning Location had tried and failed to submit an EUSS application with her passport, so had used her national identity card instead. Once she was granted status, in late 2019, she went onto the Gov.UK website to add her passport to the application. Nothing indicated a problem, and she also never received any emails about the update. She travelled without problems in 2020, but in 2022 she encountered the problem below. After help from us, and several calls with the EU Settlement Resolution Centre, it turned out that the original attempt to start an application with a passport meant her passport had 'left a digital footprint' and therefore the system was unable to add her passport.

*"On entering the UK I was told the status was linked to my ID card and not the passport. But I had added the passport two years ago. I was anxious when travelling, so I had with me a printed out decision letter, and printouts of my View & Prove status. These were not acceptable to the Border Force Officer. Eventually they let me go, saying he was doing me a favour but that I must add passport to my status." - August 2022*

284. This can also affect the large number of respondents who tell us that they are unable to View & Prove their status. If an individual cannot view their status, it is not clear whether a BFO will be able to. People understandably feel frightened to travel, or even feel prevented from travelling until the issue can be resolved.

*"Went through customs at Stansted airport and they could not see my settled status on my passport. I was granted settled status two and a half years ago and I had the email confirming it. When I got home, I tried to prove my settled status through the website but apparently my passport number is not matching their records. I tried using my national ID card too and no luck. So now I am trying to call the Home Office to find out what's wrong but it's very difficult for them to answer the calls. I also wrote an email and now I am waiting for their reply. I feel very anxious and shocked because I applied in 2019 and had no issues. Now I am worried I cannot leave the country to visit my family and I'm also worried that something will happen to my job if I cannot prove my settled status. It's causing a lot of stress because I have a 6 month old with me and went to Spain to visit family after almost 2 years without going, and now I won't be able to leave unless this issue is resolved." – September 2021*

#### 4.10.6 Automated systems unavailable for everyone

285. We have also had reports which indicate that the systems that BFOs rely on are unavailable. When these checks are only done at the UK border, as at present, there can be a discretion to allow people to enter. However, once these checks are pushed upstream, as planned within the next few years, it is far more likely that a system outage will result in many passengers being denied boarding.

286. One immigration lawyer contacted us to tell us about his client’s experience when the Home Office systems were unavailable. As discussed before, it is not acceptable in these circumstances to ask people to produce an email they were sent several years earlier and which specifically states that it is not proof of status.

*“My client, a Belgian citizen with settled status, was told at the UK border at Eurostar in Brussels that the Home Office computer system had problems and they couldn't see that he had a visa. He was told to try to get hold of the 16 digit reference number by calling home. My client, however, is divorced and lives on his own. Eventually he was let in, however with a warning that next time he should travel with his status outcome email printed off! It's also not so clear how would the 16 digit reference number help if the system was down. It made my client feel quite confused and inadequate. He was singled out and had to wait before boarding the train. He had done what was asked from him to do by applying for EUSS. He had been travelling this route many times before without any problem and could not understand what's wrong.” – November 2021*

287. The following report shows that discretion is applied by BFOs when systems are down. It is a near certainty that carriers abroad would not wish to or be able to show such discretion and allow people to board.

*“Returning from a trip abroad last week I was stopped at Heathrow immigration. The customs officer asked if I lived in the UK to which I responded yes (having lived here for 55 years) and then asked if had settled status to which I responded yes. He asked if I had any proof. I responded that I thought it was linked to my passport to which he responded that there was a 'problem' with their system. I had nothing on me to prove my status but fortunately he took 'my word' for it!” – November 2021*

288. It appears from the reports we received that November 2021 was not an isolated incident in border systems being unavailable. The following report was received in January 2022.

*“It came to my attentions from already a few clients who have a status under the EUSS that when approaching immigration control upon returning to the UK are being told that the computers crashed and they should have carried with them the PDF status attachment they've received by email as proof of having a status. They were detained for a short time at the border.” – January 2022*

**289. The UK Government should be required to engage substantively with the concerns raised about the way it has chosen to implement a digital status, and to fully explore, in good faith, alternative or supplementary implementations that leave status holders more in control of a proof of status that is not tightly coupled to a travel document, and that can be demonstrated in all circumstances at short notice without the need for digital know-how or connectivity to the internet.**

## Chapter 5. Future changes affecting travel

### 5.1 Summary

290. By the end of 2024, the Home Office is planning huge changes through its New Plan for Immigration<sup>115</sup>. In this chapter, we highlight four particular changes that form part of this plan, which will have ramifications for non-British/Irish citizens lawfully resident in the UK:
- Ending the use of biometric cards – this is somewhat ‘hardwired’ to December 2024 because all biometric cards in circulation have been issued with an expiry of December 2024
  - Introducing ‘Permission to Travel’ to push the UK’s border further upstream. This means that decisions to allow entry to the UK are effectively taken earlier, at check-in while abroad, to prevent people even making the journey to the UK if they do not have (*or crucially, cannot prove*) the required permission to enter the UK
  - Introducing Electronic Travel Authorisation (ETA) for visitors of all nationalities (except British/Irish) who wish to travel to the UK
  - The use of Interactive Advance Passenger Information (iAPI) to provide the ‘missing link’ for non-British/Irish residents in the UK who wish to travel back home and cannot (and are not expected to) apply for an ETA
291. This chapter will explore each of these areas in turn, before looking at the effect this is likely to have on those all resident migrants in the UK, including those the3million represents. We set out our recommendations at the end of the whole chapter rather than within each section, as they relate to the entire plan taken together.

### 5.2 Expiry of biometric residence cards and permits

292. For several years, biometric residence cards (BRCs) and biometric residence permits (BRPs) have been issued with an expiry date of 31 December 2024, even when the holder’s status expires on a later date.
293. This is problematic in itself, and will become more so the closer we get to December 2024, because people cannot easily demonstrate that their status is actually valid for longer. They are dependent on logging in to View & Prove, Right to Work or Right to Rent as appropriate to see the true expiry date. This does not work for citizens who experience a technical problem with viewing their status caused by the Home Office, for citizens who are digitally excluded, and for under-18 BRP holders who cannot use the Right to Work or Right to Rent websites.
294. However, in the context of travel the expiry of BRCs and BRPs is likely to lead to massive problems just two years from now, for reasons set out below.

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<sup>115</sup> Gov.UK Policy paper (2022) - [68](#)

295. There are an estimated 2.6 million non-EU-nationals living in the UK, as per the 2021 Census<sup>116</sup>. Some of these people will have obtained status with an associated UKVI account, which is capable of having passports linked to it. The 'Update your UK Visas and Immigration account details' website<sup>117</sup> explains only people who have applied to the EU Settlement Scheme, or applied for a visa and used the 'UK Immigration: ID Check' app will have a UKVI account. This app was released in September 2020. At the time of writing, it is available to EEA and Swiss citizens applying under the Points Based Systems, British National (Overseas) visa (BNO) applicants, graduate visa applicants who have a UK BRP<sup>118</sup> and applicants to the Ukraine Family Scheme or Ukraine Sponsorship Scheme<sup>119</sup>. Other non-EU nationals in the UK with existing BRPs will not have a UKVI account to which to link a passport.
296. As at the time of the Census (end of March 2021), we estimate there had been around 4,800 visas issued to EEA/Swiss citizens under the schemes other than the EU Settlement Scheme<sup>120</sup>, 5,400 visas issued under the BN(O) route<sup>121</sup>, and no graduate visas or visas under the Ukraine schemes. For non-EU family members eligible for the EU Settlement Scheme, we look at the latest data as of 30 June 2022 since these family members may have already been resident in the UK and making late applications. As of 30 June 2022, there had been 512,750 applications to the EU Settlement Scheme from non-EU nationals<sup>122</sup>. These groups add up to just under 523,000 people.
297. The figures in the two paragraphs above therefore imply that there are over two million people with BRPs who do not have a UKVI account that has the capability to link a passport to an immigration status. We know that this cohort is not the one represented by the3million, and also not does not come under the remit of the Independent Monitoring Authority. However, we nevertheless want to highlight the size of this group because we will show that the problems they will face with the planned changes to travel will also affect our cohort.
298. The UK Government are aware that this very large cohort will require to be migrated to a UKVI account, but their policy paper 'New Plan for Immigration: legal migration and border control'<sup>123</sup> of 27 July 2022 does not provide any details of how or when this will be done, only that it must be done by the end of 2024.
299. Paragraph 44 of the policy paper says "*For customers with existing immigration status, we will provide guidance and support to help them convert to an eVisa which will give them access to the full range of online account features and services. By the end of 2024 they will be able to interact with a digital immigration system removing the need to obtain a replacement physical document.*"

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<sup>116</sup> Office for National Statistics (2021) - [83](#)

<sup>117</sup> Gov.UK (2022) - [63](#)

<sup>118</sup> Gov.UK Guidance (2021) - [42](#), Google Play (2022) - [43](#), Apply App Store (2022) - [44](#)

<sup>119</sup> Gov.UK Guidance (2022) - [45](#)

<sup>120</sup> VIS\_D02, all visa types excluding EUSS, to EEA/Swiss nationals up to 2021 Q1 of Gov.UK (2022) - [66](#)

<sup>121</sup> Ibid – VIS\_D02, BN(O) route, all nationalities up to 2021 Q1

<sup>122</sup> Tab EUSS\_NON\_EEA\_01 of Gov.UK (2022) - [64](#)

<sup>123</sup> Gov.UK Policy paper (2022) - [68](#)

300. Paragraph 47 of the policy paper says *“To ensure customers with historic and paper-based evidence of their immigration status can take advantage of the benefits digital status brings, we will provide guidance on how to register for a digital customer account and convert to an eVisa. We are planning further communications activity aimed at this group to advise them what they need to do, by when. We will also endeavour to reach vulnerable people who are less digitally confident through collaboration with other Government departments and stakeholders.”*
301. Given the estimated huge size of this cohort, the imminent and unmoveable deadline of the expiry of the BRPs at the end of 2024, and the continued delays in the delivery of the Digital Services at the Border programme<sup>124</sup>, we are extremely concerned that this timescale is unachievable and will lead to thousands of people struggling to travel or return to the UK once their BRP expires.
302. We have seen with the EU Settlement Scheme how difficult it can be to reach people, since a centralised faceless approach leads to breakdown in communications. Emails are lost to spam filters, people change email address without realising they must inform the Home Office, and digitally excluded people have often had people help them apply without being able to access email themselves. For an existing UK-resident cohort with BRPs there will likely be further challenges of communications, as the Home Office may not have email addresses for them, and people may have changed their address.
- ### 5.3 Permission to Travel
303. The New Plan for Immigration policy paper of July 2022 [NPI2022]<sup>125</sup> introduces the concept of ‘Permission to Travel’. In its earlier May 2021 policy paper [NPI2021]<sup>126</sup> this was referred to as “universal permission to travel”.
304. NPI2022 makes clear in paragraph 56 that this Permission to Travel will be demonstrated by:
- A Passport - for British and Irish citizens
  - An eVisa – for visa nationals and anyone resident in the UK or coming to work or study in the UK
  - An Electronic Travel Authorisation (ETA) – for non-visa national visitors
305. As will be seen in the more detailed sections below, ETAs are intended to be rolled out by the end of 2023, whereas as we saw earlier millions of people may not yet successfully have an eVisa.
306. As demonstrated throughout *Chapter 4. Those with status under the EUSS*, proving an eVisa through the View & Prove process at a check-in desk, security control or boarding desk is not fit for purpose. On the one hand this is down to problems for the status holder (someone with a faulty digital status, or someone with a working digital status but without internet connectivity, no access to smartphones or being digitally excluded). On the status checker side we have seen that carriers are unwilling to engage with a digital View & Prove process designed for use within the UK rather than internationally.

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<sup>124</sup> Gov.UK (2022) - [69](#)

<sup>125</sup> Gov.UK Policy paper (2022) - [68](#)

<sup>126</sup> Gov.UK Policy paper (2021) - [39](#)

307. Therefore, the UK Government intends to solve this with the introduction of interactive Advance Passenger Information (iAPI) systems. Both ETA and iAPI will be discussed fully in the following two sections.

#### 5.4 Electronic Travel Authorisation (ETA)

308. The Government intends to introduce an Electronic Travel Authorisation (ETA) system, a British entry permit document. This entails that all international visitors, including those with visa-free nationalities, will need permission to enter or transit the UK, and will therefore need to apply for an ETA before travelling.

309. The 'New Plan for Immigration' policy paper<sup>127</sup> states "*we are introducing a Permission to Travel scheme in 2023*". The ETAUK website<sup>128</sup> states "*The UK government says that the ETA system will be introduced at the start of 2023, and become fully operational by the end of that year.*"

310. An archived version of the ETAUK website as at only a few months ago in July 2022<sup>129</sup> stated "*The UK government says that the ETA system will be in place by the end of 2024. [...] Although the exact ETA launch date is not yet known, all travellers (except for British and Irish citizens) will need permission to enter or transit the UK in the coming years.*" A version from November 2021<sup>130</sup> stated "*... from 2025*" instead of "*... in the coming years.*"

311. The Government therefore appears to be very set on implementing ETA by 2023, given how the versions of the ETAUK website over time have explicitly brought the implementation forward from 2025 to 2023.

312. ETAs are intended for visitors, not for UK residents. Non-British/Irish citizens who live in the UK with a UK immigration status will not need to apply for an ETA, and indeed will not be able to apply for an ETA, because they do not satisfy the requirements of a visitor.

313. These citizens will therefore need to demonstrate that they can travel **without** an ETA. The Government's stated intention is that they will do so by means of Interactive Advance Passenger Information (iAPI), to be discussed in the next section.

314. The 2023 timescale for the implementation of ETA appears very ambitious given the history of delays to the delivery of the DSAB programme. Crucially, however, if this ambition is met it will result in total chaos for all non-British/Irish citizens who reside in the UK unless iAPI is also implemented by that time.

315. Even if the ETA implementation is delayed, perhaps relating to iAPI implementation being delayed, the expiry of biometric residence cards/permits by the end of 2024 creates a very hard and difficult to move deadline. There is therefore an enormous risk that systems will either not be in place in time, or that implementation will be rushed, flawed and incomplete – resulting in a dramatic travel risk for a very large cohort of people.

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<sup>127</sup> Gov.UK Policy paper (2022) - [68](#)

<sup>128</sup> ETA UK (2022) - [84](#)

<sup>129</sup> ETA UK Archive (2022) - [86](#)

<sup>130</sup> ETA UK Archive (2021) - [85](#)

## 5.5 Interactive Advance Passenger Information (iAPI)

316. NPI2022 has many mentions of eVisas. NPI2022 paragraphs 38-41 discuss eVisas in the context of future immigration applications being increasingly transitioned to eVisas, reducing the need for people to go to a Visa Application Centre (VAC). The EU Settlement Scheme and Hong Kong BN(O) route are cited as successfully demonstrating the benefits of eVisas. NPI2022 paragraphs 43-44 discuss planned improvements to View & Prove, and the plan to move the existing cohort with UK immigration status to eVisas by the end of 2024 (a cohort we estimate to be over 2 million people – see paragraph 297 of this report).
317. NPI2022 paragraphs 45 to 50 further discuss this transition, and admits *“We are conscious of the lessons learnt from Windrush and are committed to ensuring that all customers, including the most vulnerable, are properly supported as we transform our immigration system. Nobody should be left behind as a result of our digital transformation.”* However, importantly, the only mitigation provided in these paragraphs is the Resolution Centre: *“Should customers have difficulty accessing their eVisa online or experience any technical issues, our dedicated Resolution Centre will be on hand to support them”*. the3million has written extensively on the problems with the Resolution Centre – difficulties getting through at all, waiting time, and the weeks, months or sometimes even years it can take before a technical problem with an individual’s status is fixed.
318. However, there is extremely scarce information on how those with eVisas are to travel once the ‘permission to travel’ plans and ETAs are implemented. NPI2022 paragraph 56 confirms that those with an eVisa are not expected to apply for an ETA – in fact they will not even be able to do so because they are not *visitors* to the UK. NPI2022 paragraphs 59-62 are where it becomes clear what the UK Government’s intentions are for eVisa holders who need to travel and return to the UK.
319. NPI2022 paragraph 59 sets out the fundamental piece of the puzzle intended to allow those with eVisas to travel without somehow engaging carriers in the not-fit-for-travel-purpose View & Prove system. It states *“we are developing a single, integrated approach to security, immigration, and health (if applicable) predeparture checks, based on our existing Advance Passenger Information (API) systems. Carriers will receive a single message from the Home Office confirming whether an individual has permission to travel when they submit API data. This will help carriers discharge their statutory obligations under the UK ‘carriers’ liability’ scheme, to ensure passengers are properly documented for travel to the UK without the need to check additional immigration documents. This scheme will be amended to reflect the introduction of ETAs and the wider permission to travel requirements.”*
320. NPI2022 paragraph 60 goes on to state *“Whilst carriers will still be expected to check that an individual has a valid travel document, the permission to travel message will also help them determine whether the passenger has the appropriate eVisa or ETA. This will mitigate the risk of incurring a charge under the carriers’ liability scheme. This new integrated approach will also reduce incidents where, at their own expense, carriers are required under existing immigration legislation to return individuals who have been refused entry at the UK border.”*



321. We have discussed earlier in this report (paragraph 147) the problems already experienced by citizens due to the contradictory policy of stating carriers only need to check for valid travel documents and do not have to check for immigration status on the one hand, and on the other hand the removal obligations placed on carriers to return individuals at their own expense if they are refused entry at the UK border for a lack of immigration status.
322. After NPI2022 paragraph 61 describes the beta plans with ‘early adopters’ since 2021, NIP2022 paragraph 62 sets out the concept of interactive Advance Passenger Information (iAPI) and the ambition that this will be in place by early 2024: *“In April 2022, we successfully introduced new functionality and tested our ability to send messages to carriers confirming that we could match individual passengers on specific routes to valid permission records using the interactive Advance Passenger Information System (iAPI). We are looking at alternative solutions for carriers who do not use the iAPI so they can send API and receive permission to travel responses. Engagement with these carriers will help us understand how the technology can operate in passenger journeys across different modes of transport. Integration with all carriers will be in place by early 2024.”*
323. An FOI<sup>131</sup> revealed that just five carriers were involved in the testing of iAPI on a few limited routes – Emirates and British Airways on all routes to the UK from Dubai, Qatar Airways on all routes to the UK from Doha, WizzAir on all routes to the UK from Budapest, and Ryanair on all routes to the UK from Sofia, Malta, Malaga and Athens.
324. However, our request for the list of carriers who do not use the iAPI system was refused, on the basis that *“disclosure of such information is exempt as it could prejudice the operation of immigration controls.”* We therefore do not know how many carriers do not use iAPI, what the ‘alternative solutions’ might be envisaged by the Home Office, but we do know that the Home Office acknowledge that revealing these carriers could prejudice the operation of immigration controls. This implies that where alternative solutions are not found, the systems in place will likely be inferior, and this will likely lead to passengers suffering as a result when they have no ‘traditional’ physical proof to demonstrate why they can travel to the UK despite not having an ETA.
325. Paragraph 319 explained that the future changes are based on how the system currently works with (non-interactive) Advance Passenger Information systems. The fact that this cannot be replicated at scale is shown by the following report:

*“I was rushing from the domestic terminal at [EU] airport to catch my connecting flight to London. I just managed to get to the gate on time, when I presented my Hungarian national ID, boarding pass and PCR test result to the [carrier] ground staff member. She asked me where I resided. I answered that I lived in the UK. I was asked to step aside as at least 250 people were boarding the aeroplane. Subsequently, she asked me to show a proof of address. I was puzzled. It never happened to me that someone unexpectedly asked for a proof of address at an airport gate before embarking the plane. This was an airline staff member not an immigration officer. I asked three times WHY she needed it before she answered that she was trying to help me and that she was on the phone with immigration. I was shocked. I said to myself, why would you need to help me!? Why would you need to be on the phone with immigration when I have settled status. A stream of questions started running through my head but most importantly, why me?! Is it because I'm from Eastern Europe!? How many times do I need to prove who I am and where I live? Why can't the UK immigration see my details in the system? And if they have a faulty system that they couldn't sort out for four and a half years why can't they provide me with a*

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<sup>131</sup> Home Office FOIA (2022) - [23](#)

*physical proof of my Settled Status in case something like this happened? Why can't they warn people before they travel to carry a physical proof of their address so they are not caught out on the spot? I grew impatient and raised my voice. The [carrier] staff member and her colleagues finally explained that before every flight to London they receive a list from UK immigration with some passengers' names. On this flight I was one of the 13 passengers the airline needed to check. I was told by the [carrier] ground staff that there had also been other EU citizens on the list." - February 2021*

326. We are exceptionally concerned both by the extremely tight timescales of the Government's plans given the unmoveable expiry of all BRCs and BRPs at the end of 2024 (also in the light of how a statement of further delay<sup>132</sup> has already been issued since the publication of NPI2022), and by the gaps exposed by the above paragraph relating to carriers who do not use iAPI.

## 5.6 Effect on EEA/Swiss citizens

327. It is important to acknowledge that from the moment the ETA system is effective, all EEA/Swiss citizens resident in the UK will effectively be turned into visa nationals at a stroke. This is because they will need to prove that they **don't** need an ETA, by demonstrating they have an eVisa in the UK. As a cohort they will be at a significant disadvantage to their compatriots who can apply for an ETA when intending to visit the UK.

328. We understand from conversations with airline technology companies that the intention is that when people check-in to their flight (whether online or at a check-in desk), a message will be sent to the UK systems via iAPI. This message will include the passenger's travel document number, name and date of birth. Within a few seconds, a Yes / No response should be returned as to whether this person has permission to travel to the UK.

329. The response from the UK systems will roughly be based on a look up whether the passenger is British or Irish (can travel), has a valid ETA (can travel) or has a valid eVisa (can travel).

330. At this point, it is easy to see from the earlier chapters in this report how problematic this will be for eVisa holders who:

- Have a currently 'broken' eVisa and are struggling to get the Resolution Centre to fix their eVisa;
- Have attempted to link a new identity document to their eVisa but are still waiting for this to take effect, or have been asked to send their identity document to the Home Office through the post. The current Home Office workaround of showing an expired document will not work when checking in abroad;
- Have multiple applications with the Home Office, and the iAPI system returns the incorrect result;
- Are not digitally literate and did not realise that their status needed to be updated with a new travel document, or have struggled to do so

331. At the point at which there is a literal situation of 'computer says no' from the online check-in process, the passenger will presumably be informed that they cannot check-in online, and will need to present at a check-in desk at the airport.

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<sup>132</sup> Gov.UK (2022) - [69](#)

332. At the check-in desk, the passenger will have no simple way of proving their entitlement to travel to the UK, as they will never had any physical backup of their proof of status, nor will they have any digital token they can easily display and have scanned in (akin to for example when demonstrating COVID compliance via the NHS Travel Pass or the EU Covid Pass).
333. Instead, the only options open will be to persuade the member of staff at the check-in desk to engage with the View & Prove system. View & Prove is primarily designed for employers and landlords, and is expressly not fit for purpose to be used abroad while travelling. All those who experienced problems described in *'Chapter 4. Those with status under the EUSS'* will be canaries in the coalmine for the chaos to come under the new systems, since currently EEA/Swiss passengers can still highlight to check-in staff that carriers are not required to check their immigration status.

## 5.7 Effect on non-EEA/Swiss nationals

334. The above section will apply equally to non-EEA/Swiss nationals, but with an added layer of complexity.
335. After 2024, all non-EEA/Swiss nationals with a UK residence status will no longer have a valid physical biometric card, as they will all have expired in December 2024. This includes family members of EEA/Swiss citizens with status under the EU Settlement Scheme.
336. Many of the problems we have seen for passengers so far have related to the difficulty in persuading carriers throughout the world, at airports large and small, to deal with a UK change in policy. This is evidenced by the IMA's Open letter to carriers<sup>133</sup>, which was sent after many months of reports of people denied boarding when travelling to the UK, all related to "carriers' awareness".
337. People who currently have biometric residence permits [BRPs] for a UK immigration status outside the EU Settlement Scheme will not yet have an eVisa. They can use their BRP to prove their right to work and right to rent through Government right to work/rent websites, but this process does not include sending a two-factor authentication security code through email or SMS, because there is not yet a UKVI account with email and telephone number attached. They therefore can't use the eVisa maintenance website<sup>134</sup> to link travel documents.
338. Before the end of 2024, this cohort will need to have received instructions from the Home Office to convert their BRP to a fully functioning eVisa. If they successfully receive these instructions, they need to be sufficiently digitally literate to complete the process, the process has to work without Home Office systems error, and then they must proceed to maintain their eVisa account to ensure their latest passport is always linked. Unless all these steps are successfully completed, people in this cohort will suddenly face serious barriers to travel, regardless of whether they are on the UK's visa-national list.
339. We therefore predict large-scale problems for non-EEA/Swiss nationals when their physical cards expire, on top of the predicted problems with the future iAPI system referred to in *'5.7 Effect on non-EEA/Swiss nationals'* above.

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<sup>133</sup> Independent Monitoring Authority (2022) - [88](#)

<sup>134</sup> Gov.UK (2022) - [63](#)

## 5.8 Effect on dual nationals

340. There are already some travel problems unique to dual British nationals, which we will set out here, before continuing to explain why the situation will get worse once the UK implements its planned changes.
341. Dual British nationals who are beneficiaries of the Withdrawal Agreement are not able to obtain proof of their rights under the Withdrawal Agreement, either because they are unable to apply to the EUSS if they had already naturalised to become dual-British before applying, or because their EUSS status ceases to be effective once they naturalise to become dual-British.
342. When people become British, they are eligible to apply for a British passport to evidence their British nationality, but they are not obliged to do so. However, because it is not possible for a dual British national to obtain documentary proof of their Withdrawal Agreement rights, including their right of residence in the UK, dual British nationals are in practice forced to incur the expense of applying for a British passport in order to enter the UK.

*“My young children were travelling with me a British passport holder and their German father who has EUSS. Our children were travelling with their German passport after our trip to Germany. UK border force didn't want to let my children enter the UK until he had seen their British passports. My children have dual nationality. We all have the same surname. Their German passport should've been enough to enter the UK. It was for all the other border controls we encountered. This was distressing to us as parents and our children.” - June 2022*

343. This is especially problematic when the dual national is a baby who is born a dual British national due to having settled parents. The parents have no choice but to apply for a British passport even though they ought to be able to assert the baby's Withdrawal Agreement rights by linking such rights to the travel document of their other nationality.
344. Where the other nationality is EEA or Swiss, dual British nationals who are beneficiaries of the Withdrawal Agreement are unable to travel with national identity cards because they cannot demonstrate their Withdrawal Agreement rights. The right to travel with a national identity card is set out in Article 14(1) of the Withdrawal Agreement.

*“I am a dual Dutch-British citizen, living in the UK for over 30 years. I obtained my British citizenship a year before the EU Settlement Scheme was created, so I was never able to apply for settled status. I therefore can't prove that I'm covered by the Withdrawal Agreement. This worries me in case I want to exercise family reunion rights in the future, I don't know what evidence I need to keep to be able to prove my eligibility at some unknown point in the future, maybe even 10 years down the line, when my mum needs to be with me. It is also really frustrating that I can no longer use my national identity card to travel to the Netherlands even though the Withdrawal Agreement says that I can. I therefore had to apply and pay for a passport instead. I also worry about what will happen in future when I make a booking under my Dutch passport - will I be allowed to check in and board if there's no UK immigration status attached to my Dutch passport? If I make the booking under my British passport instead, will I then be forced to pay for the new ETIAS even though I have the right to travel to Europe without getting an ETIAS? It feels like things have not been thought through very well for dual nationals” - November 2022*

345. We are concerned that the planned automated 'Permission to travel' systems will generate even more problems for passengers with dual nationality, especially once the EU also implements its European Travel Information and Authorisation System (ETIAS)<sup>135</sup> in 2023.
346. Consider the example of a French citizen, beneficiary of the Withdrawal Agreement, who naturalised as a British citizen some time ago (and therefore does not hold status under the EUSS) and holds both French and British citizenship.
347. If this person wants to book a return trip to somewhere in the EU, they will need to demonstrate that they do not need to acquire an ETIAS (because they are an EU citizen), and that they also do not need to acquire an ETA (because they are a British citizen).
348. This means they need to attach their French identity document to their outbound journey to the EU, and their British passport to their return journey to the UK. It is not clear to us that every carrier has the capability to allow people to attach different passports to different legs of the journey, and indeed we have seen various examples (including large carriers such as British Airways) where a carrier only asks for one identity document which is then attached to both outbound and return legs of the trip.
349. It is also quite permissible for the two passports to reflect different names. For example, a married woman who has always used their married name in the UK will still have their birth name on their French passport (possibly augmented by "épouse de [married name]"). They will have been able to obtain a British passport in their married name by supplying a marriage certificate at time of applying for the passport.
350. This will then create an additional layer of complexity for the traveller because they will need to book the overall return ticket in either their married or birth name. Either way, even if the carrier allows the entry of separate identity documents to the outbound and return legs of the journey, the passenger will struggle to attach one of the passports since the name will not match the name on the ticket.
351. In a conversation with one of the leading airline technology companies, we were told that dual nationals are airline companies' "worst nightmare", therefore we do not think our concerns are overstated. In 2021 alone, there were 57,604 applications<sup>136</sup> for citizenship by EU nationals.
352. If it were to be suggested that people in this situation would need to for example book two separate single tickets rather than a return ticket, this would be unacceptable as they are likely to be charged a higher price for the same journey.
353. All the above problems would be addressed if a dual British national was able to link proof of being a Withdrawal Agreement beneficiary to their non-British travel document.

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<sup>135</sup> ETIAS (2022) - [89](#)

<sup>136</sup> Section 4.1 on Gov.UK Official Statistics (2022) - [78](#)

**354. *The IMA should engage with the UK Government to ensure that a process is urgently created whereby dual British citizens who are beneficiaries of the Withdrawal Agreement are able to obtain documentary proof of their Withdrawal Agreement rights as set out in Article 18(1), as is possible in other EU Member States who have adopted a constitutive scheme as set out in Article 18.***

## 5.9 Recommendations

**355. *The UK Government must publish any impact assessments it has produced which show that it has considered how the 'New Plan for Immigration: legal migration and border control strategy' will work for non-British / Irish citizens who are lawfully resident in the UK, at every step of their journey when travelling abroad and back to the UK.***

**356. *The Home Office must urgently create a forum where civil society organisations can discuss existing problems with existing implementation of digital immigration status, in which the Home Office engages in good faith to seek solutions and discuss alternative proposals.***

**357. *The Government should delay its implementation of pushing border checks upstream via 'Permission to Travel' and 'Electronic Travel Authorisation' by at least a number of years, to allow for a transition period to demonstrate the use of iAPI. For at least two years, the Government must monitor, and transparently publish the results of such monitoring, the use of systems to check eVisas from abroad while not preventing people from boarding. This may include the need to issue renewed biometric cards to non-EU citizens, or directing carriers to accept expired biometric cards as valid for travel. This is to ensure citizens who are lawfully resident in the UK do not suffer travel problems on a large scale as a result of rushed Home Office systems implementations that have already been repeatedly delayed.***

## Chapter 6. Summary of Recommendations

1. The IMA should address all the recommendations set out in our November 2021 (EUSS delays) and March 2022 (maintaining a digital status) reports to the IMA, as many of these have travel consequences as set out in this report.

### 6.1 Those yet to receive permission to come to the UK

2. Policy change should be sought such that joining family members whose nationality is not on the UK's visa-national list are allowed to travel to the UK without first needing to have obtained EUSS status or an EUSS family permit. They should be allowed to enter the UK for the express purpose of being reunited with their family sponsor and submitting an in-country EUSS application. (Paragraph [21](#))
3. Decisions for EUSS family permits must be taken more quickly than other family routes including visit visas. The UK Government should be required to set a clear service standard for EUSS family permits applications, which must be expressed in a number of weeks rather than 'as soon as possible'. Failure to do so is a breach of Article 14(3) of the Withdrawal Agreement which refers to "accelerated procedure". The service standard must be shorter than the service standard of any other family route including visit visas. (Paragraph [27](#))
4. Policy and process change should be sought such that people applying for EUSS family permits are never required to give up their passport while they wait for a decision on their family permit. (Paragraph [30](#))
5. Processing times of EUSS Family Permits should be published on a transparent and regular basis, to ensure compliance with the service standard set above and thereby with Article 14(3) of the Withdrawal Agreement. Data, including processing times, on appeals of EUSS Family Permits should also be published on a transparent and regular basis. (Paragraph [36](#))
6. The Withdrawal Agreement protects family reunion rights of those EU citizens who had moved to the UK before 31 December 2020. Article 14(3) requires that the UK grants family members every facility to obtain the necessary visas, on the basis of an accelerated procedure. The Home Office therefore has a clear responsibility to process family groups holistically, to facilitate their permission to come to the UK. The IMA should investigate whether and how family permit applications from family members are considered holistically as a group. (Paragraph [38](#))
7. the3million has had extended correspondence with the Home Office on the problems around EUSS Family Permits. EUSS Family Permits do not appear to feature on the IMA's issues log as at the time of writing. We ask that the IMA engages with the problems and delays around EUSS Family Permits, given the gravity of the impacts on families. (Paragraph [39](#))
8. Policy change should be sought such that with immediate effect, all those whose nationality is not on the UK's visa-national list can travel to the UK on the basis of an existing pending EUSS or EUSS family permit application. Failure to do so is a breach of Article 18(3) of the Withdrawal Agreement for those with pending EUSS applications. (Paragraph [51](#))

9. Processing times of EUSS applications should be published on a transparent and regular basis. Data, including processing times, on administrative reviews and appeals of EUSS applications should also be published on a transparent and regular basis. (Paragraph [52](#))
10. Policy change should be sought such that new-born children of any nationality, whether on the UK's visa-national list or not, should be able to travel to the UK with parents who have status under the EUSS, without being required to first acquire either an EUSS family permit or status under the EUSS. (Paragraph [56](#))
11. Policy and process change should be sought such that anyone who has rights under the Withdrawal Agreement to live and work in the UK is able to make an application from abroad or travel to the UK, even if they do not have the required documentation to use the EUSS or EUSS family permit application process. (Paragraph [61](#))
12. Policy process should be sought such that it is not necessary for certain family members to leave the UK for six months in order to 'break' continuity of residence, rather people should be able to simply choose their moment of the start of their claimed continuity of residence. (Paragraph [71](#))

## 6.2 Those in the UK with a pending EUSS application

13. Process change should be sought such that there is a clear service standard for the return of passports, identity cards and biometric cards to people who need to send these identity documents to the Home Office as part of their EUSS application. This service standard should be a matter of days. Failure to do so would be a breach of Article 18(3) specifically regarding applicants' rights of entry to the UK under Article 14. (Paragraph [86](#))
14. Policy change should be sought such that any visa nationals currently in the UK with a pending in-country EUSS application should be able to freely leave and re-enter the UK, even if their visitor visa, EUSS family permit or other leave to enter the UK has expired while waiting for the Home Office to make a decision on their EUSS application. (Paragraph [92](#))
15. Policy change should be sought such that any non-visa nationals currently in the UK with a pending in-country EUSS application should be able to freely leave and re-enter the UK. Failure to do so would be a breach of Article 18(3). (Paragraph [96](#))
16. These policy changes should be accompanied by clear guidance to carriers, and a clear mechanism whereby people with pending EUSS applications can prove their entitlement to travel to the UK, even in the event of delays to the issuing of Certificates of Application. (Paragraph [97](#))
17. Policy changes should be sought such that those with pending EUSS applications, whose biometric residence card is lost, stolen or expired, are able to apply for EUSS Travel Permits from abroad, and replacement BRCs when in the UK. (Paragraph [100](#))
18. Even in the absence of wider policy changes to allow free travel for those with pending EUSS applications, the Government must ensure that anyone stuck abroad after having left the UK with a pending EUSS application is assisted to return to the UK immediately. (Paragraph [105](#))



### 6.3 Those with status under the EUSS

19. Article 14 of the Withdrawal Agreement clearly protects the right to “leave the host State and the right to enter it”. People who have suffered loss through being unable to travel have rights not only under the Withdrawal Agreement but also have consumer rights under the Denied Boarding Regulation. However, it appears that neither the Government nor the carriers have been forthcoming with compensation or restitution. The IMA should investigate the Government’s obligations in facilitating a compensation scheme. (Paragraph [113](#))
20. The maintenance of UKVI accounts with new identity documents must be radically improved, so updates are effective immediately, identity documents are not required to be sent through the post, and status holders can clearly see all identity documents that are linked to their account. (Paragraph [128](#))
21. The UK Government should review all circumstances in which people are required to send their identity document by post. It should provide alternatives in each of these circumstances so that the identity document can be checked by technology or manually, but crucially without the person needing to be separated from their document. If checking manually, this service must be free and available at sufficient locations throughout the UK to prevent unreasonable travelling costs. (Paragraph [132](#))
22. While biometric cards are still essential for travel for non-EU nationals, the UK Government should be required to set a clear service standard for the replacement of biometric cards, which must be less than one month. Failure to do so denies the right to travel freely to non-EU family members with status under the EU Settlement scheme. (Paragraph [135](#))
23. Policy change should be sought such that, for so long as carriers are not required to check all non-British/Irish passengers’ immigration status, carriers must allow non-visa nationals (including EEA/Swiss citizens) with a valid passport to travel to the UK, and must not deny them boarding on the basis of not being able to check UK immigration status. Carriers must be clearly assured that they will not incur any charges or fines for allowing non-visa nationals with a valid passport to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation mechanism for non-visa national citizens denied boarding to the UK when travelling with a valid passport. (Paragraph [162](#))
24. Policy change should be sought such that, for so long as carriers are not required to check all non-British/Irish passengers’ immigration status, carriers must allow EEA/Swiss citizens with a valid national identity card to travel to the UK, and must not deny them boarding on the basis of not being able to check UK immigration status. Carriers must be clearly assured that they will not incur any charges or fines for allowing EEA/Swiss citizens with a valid national identity card to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation mechanism for EEA/Swiss citizens denied boarding to the UK when travelling with a valid national identity card. (Paragraph [179](#))

25. Policy change should be sought such that carriers must allow visa nationals with a valid passport to travel to the UK if they can prove their UK immigration status via the UK Government's View & Prove web portal, and must not deny them boarding on the basis of not having a valid physical proof of status. Carriers must be clearly assured that they will not incur any charges or fines for allowing visa nationals with a valid passport who have proved their UK immigration status via View & Prove to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation process for visa nationals denied boarding to the UK when travelling with a valid passport and able to prove their UK immigration status via View & Prove. (Paragraph [194](#))
26. Ensure the Home Office clarifies on their website that people with EEA BRCs can apply for an EUSS BRC at any time even before expiry, and at no charge. Carriers must be clearly assured that they will not incur any charges or fines for allowing visa nationals with a valid passport and a valid EEA BRC to travel to the UK, or incur any costs or removal obligations to return these citizens if they are denied entry to the UK. The UK Government must put in place a clear and transparent compensation scheme for visa nationals denied boarding to the UK when travelling with a valid passport and a valid EEA BRC. (Paragraph [205](#))
27. We echo the ICIBI's recommendation that the Home Office should conduct and publish a review to ascertain on what grounds particular nationalities are being subjected to a greater level of scrutiny than others at borders – including by immigration control in the UK and abroad and by carriers abroad. (Paragraph [235](#))
28. Furthermore, we would ask that the Home Office clarifies the legal basis and policy upon which certain passengers are selected for alerting carriers to ask those passengers for additional id and/or other additional checks such as completing a language test. (Paragraph [236](#))
29. We have serious concerns about people being discriminated against on the basis of their race and nationality. Careful analysis via an inquiry should be conducted to establish whether borders are being managed in a way that runs contrary to the Withdrawal Agreement and equality legislation. (Paragraph [237](#))
30. The Home Office should investigate and set out the circumstances in which a passenger's passport is not accepted by eGates other than those relating to the UK's security, to improve the understanding of problems that will be encountered once these checks occur at check-in abroad rather than on arrival in the UK. (Paragraph [250](#))
31. As also identified in our August 2021 report to the IMA, the Home Office must provide evidence that sufficient training is given to UK Border Force officials, and that performance is monitored to ensure that people with the right to enter the UK are treated properly. (Paragraph [262](#))
32. The UK Government should be required to engage substantively with the concerns raised about the way it has chosen to implement a digital status, and to fully explore, in good faith, alternative or supplementary implementations that leave status holders more in control of a proof of status that is not tightly coupled to a travel document, and that can be demonstrated in all circumstances at short notice without the need for digital know-how or connectivity to the internet. (Paragraph [289](#))

## 6.4 Future changes affecting travel

33. The IMA should engage with the UK Government to ensure that a process is urgently created whereby dual British citizens who are beneficiaries of the Withdrawal Agreement are able to obtain documentary proof of their Withdrawal Agreement rights as set out in Article 18(1), as is possible in other EU Member States who have adopted a constitutive scheme as set out in Article 18. (Paragraph [354](#))
34. The UK Government must publish any impact assessments it has produced which show that it has considered how the 'New Plan for Immigration: legal migration and border control strategy' will work for non-British / Irish citizens who are lawfully resident in the UK, at every step of their journey when travelling abroad and back to the UK. (Paragraph [355](#))
35. The Home Office must urgently create a forum where civil society organisations can discuss existing problems with existing implementation of digital immigration status, in which the Home Office engages in good faith to seek solutions and discuss alternative proposals. (Paragraph [356](#))
36. The Government should delay its implementation of pushing border checks upstream via 'Permission to Travel' and 'Electronic Travel Authorisation' by at least a number of years, to allow for a transition period to demonstrate the use of iAPI. For at least two years, the Government must monitor, and transparently publish the results of such monitoring, the use of systems to check eVisas from abroad while not preventing people from boarding. This may include the need to issue renewed biometric cards to non-EU citizens, or directing carriers to accept expired biometric cards as valid for travel. This is to ensure citizens who are lawfully resident in the UK do not suffer travel problems on a large scale as a result of rushed Home Office systems implementations that have already been repeatedly delayed. (Paragraph [357](#))

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