



House of Commons  
Exiting the European Union  
Committee

---

**The progress of the  
UK's negotiations on EU  
withdrawal: the rights  
of UK and EU citizens**

---

**Eighth Report of Session 2017–19**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 18 July 2018*

## Exiting the European Union Committee

The Exiting the European Union Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Exiting the European Union and related matters falling within the responsibilities of associated public bodies.

### Current membership

[Hilary Benn MP](#) (*Labour, Leeds Central*) (Chair)

[Mr Peter Bone MP](#) (*Conservative, Wellingborough*)

[Joanna Cherry MP](#) (*Scottish National Party, Edinburgh South West*)

[Sir Christopher Chope MP](#) (*Conservative, Christchurch*)

[Stephen Crabb MP](#) (*Conservative, Preseli Pembrokeshire*)

[Mr Jonathan Djanogly MP](#) (*Conservative, Huntingdon*)

[Richard Graham MP](#) (*Conservative, Gloucester*)

[Peter Grant MP](#) (*Scottish National Party, Glenrothes*)

[Wera Hobhouse MP](#) (*Liberal Democrat, Bath*)

[Andrea Jenkyns MP](#) (*Conservative, Morley and Outwood*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Jeremy Lefroy MP](#) (*Conservative, Stafford*)

[Mr Pat McFadden MP](#) (*Labour, Wolverhampton South East*)

[Craig Mackinlay MP](#) (*Conservative, South Thanet*)

[Seema Malhotra MP](#) (*Labour (Co-op), Feltham and Heston*)

[Mr Jacob Rees-Mogg MP](#) (*Conservative, North East Somerset*)

[Emma Reynolds MP](#) (*Labour, Wolverhampton North East*)

[Stephen Timms MP](#) (*Labour, East Ham*)

[Mr John Whittingdale MP](#) (*Conservative, Maldon*)

[Hywel Williams MP](#) (*Plaid Cymru, Arfon*)

[Sammy Wilson MP](#) (*Democratic Unionist Party, East Antrim*)

### Powers

The Committee is one of the departmental select committees; its powers are set out under a Temporary Standing Order of 4 July 2017.

### Publication

Committee reports are published on the Committee's website at [www.parliament.uk/execom](http://www.parliament.uk/execom) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### **Committee staff**

The current staff of the Committee are James Rhys (Committee Clerk), Claire Cozens (Second Clerk), Dr Ariella Huff (Senior Committee Specialist), Shakera Ali (Committee Specialist), Duma Langton (Committee Specialist), Judy Goodall (Committee Specialist), Adrian Hitchins (Committee Specialist), Julian Mazowiecki (Committee Specialist), Eoin Martin (Committee Specialist), Leo Oliveira (Senior Committee Assistant), Pansy Barrett (Senior Committee Assistant), Henry Ayi-Hyde (Committee Assistant), Estelle Currie (Senior Media Officer) and Ben Shave (Media and Communications Officer).

### **Contacts**

All correspondence should be addressed to the Clerk of the Exiting the European Union Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 7568; the Committee's email address is [exeucom@parliament.uk](mailto:exeucom@parliament.uk).



# Contents

---

<b>Conclusions</b>	<b>3</b>
<b>1 UK citizens in the EU</b>	<b>8</b>
The Withdrawal Agreement negotiations so far	8
Continuing free movement and associated rights	9
Registration of UK citizens in the EU	12
Current systems to demonstrate right to residence	12
Voting rights	15
Dual nationality	16
<b>2 EU citizens in the UK</b>	<b>17</b>
The EU Settlement Scheme	17
Applying for Settled Status	17
Home Office approach to applications	19
Evidence of Settled Status	20
Those who are unaware, do not apply or unable to satisfy requirements	23
Barriers to applications	23
Digital application process	25
Categories excluded from the Withdrawal Agreement	26
Cost	27
Information provision	28
Those who do not obtain Settled Status	31
Criminal record checks	31
Data protection exemption	32
Post 2020	33
Timetable and deadlines	33
Independent oversight and appeals	36
Clarity on the situation for Irish in the UK	38
<b>3 Ring fencing citizens' rights in the event of no deal</b>	<b>40</b>
The UK in the EU	40
The EU in the UK	40
<b>Formal minutes</b>	<b>42</b>
<b>Witnesses</b>	<b>45</b>
<b>Published written evidence</b>	<b>50</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>51</b>



## Conclusions

---

### UK citizens in the EU

1. In our May Report on the Progress of the negotiations, we said that both sets of negotiators had failed to make it clear whether ongoing free movement rights for UK citizens in the EU would form part of negotiations and the future relationship between the EU and the UK. There are associated rights that will fall alongside the loss of free movement. These include the ability of some professionals to operate in more than one Member State, their ability to offer cross border services and the right to open a business in another Member State. We do not think these matters should be left wholly to the negotiations on the future relationship as this would mean a period of continuing uncertainty. We call on the UK Government to raise the matter again in the negotiations before the Withdrawal Agreement is finalised, and ask for an agreement on ongoing free movement within the EU27 for UK citizens currently resident in the EU. At the very least, it should be explicitly included in the political declaration. (Paragraph 15)
2. We welcome the efforts made by the Home Secretary and the Immigration Minister to seek more information about registration of UK citizens from their counterparts among the EU. We note that the European Parliament Brexit Steering Group has joined the call for Member States to set out preparations for how they will approach the registration of UK citizens on their territory. We repeat our previous recommendation to the UK Government to seek urgent clarification from the EU-27 as to their preparations to regularise the status of UK citizens on their territory. Any requirements need to be made public by EU Member States and disseminated widely as soon as possible. UK citizens living in other EU countries cannot be left in the dark as to how they can secure their rights. (Paragraph 23)
3. The Immigration Minister told us that the EU has declined to consider a reciprocal agreement for the continuation of voting rights as part of the Withdrawal Agreement negotiations. This is highly regrettable. Unless the negotiations change this position, the UK will have to secure bilateral agreements with each Member State. We look forward to hearing how the UK intends to take this forward and call on Member States to respond positively. We trust that the UK Government and devolved administrations will continue to enable EU citizens living in the UK to stand and vote in local elections and in elections to the Scottish Parliament, Welsh and Northern Ireland Assemblies. (Paragraph 27)
4. The rules on dual citizenship differ between Member States, and it is not practicable in all circumstances for British citizens in the EU to apply for dual citizenship in their host state—for example Austria, Estonia, Lithuania, Netherlands and Slovakia do not allow dual nationality. In the absence of an agreement enabling them to continue to benefit from free movement, some may have to choose to renounce their British citizenship and apply to become a citizen of their host country to enable them to continue to live their lives as now. This would be unacceptable and we urge Member States, and the European Parliament, to look at this issue so that UK citizens can maintain their rights without having to renounce their citizenship in the event of there being no Withdrawal Agreement. (Paragraph 29)

## EU citizens in the UK

5. In the past, the ability of a non-UK passport holder to demonstrate their immigration status has been to show a document such as a Biometric Residents Permit or a non-UK passport with an endorsement showing their status. This has been important to enable individuals to demonstrate their right to be in the UK to employers, landlords, and to access public services. The Government has acknowledged the difficulty in proving a right to work, rent or access public services, without documentation. Documents, such as endorsed passports or biometric cards, are understood as forms of identification and are likely to be the default document requested by a landlord or employer. (Paragraph 45)
6. The Home Office has decided not to issue a hard document or endorsement on passports as evidence of Settled Status, but instead to send the successful applicant a digital code, which is then passed to an employer, or landlord, who would need to input the digital code into a Home Office website, enabling them to access information that confirms the individual's immigration status. We note that the preferred method is for the individual to have an electronic device—such as a smartphone or tablet to receive the digital code—and for the employer to also have access to an electronic device to be able to go online, and be willing to go through the process. The Government should clarify how employers and landlords are meant to take and keep copies of digital records of settled status as they are currently required to do for physical documents. (Paragraph 46)
7. We have heard evidence from the EU citizens in the UK that they would prefer a hard document to be able to show their legal status and to minimise the chance of them experiencing discrimination. The evidence of the Windrush generation—where many people who were perfectly entitled to be in the UK but found it difficult to persuade others of this without physical documentary evidence—has heightened this concern. (Paragraph 47)
8. The Minister told us that the Home Office has started to roll out online checking of digital status for right-to-work checks. We recognise that, in future, other groups of non-UK passport holders will be using similar digital processes as a matter of course to demonstrate their immigration status. However, we are concerned that this is a task of unprecedented scale for the Home Office and it is being done within a very tight time frame. The experience of the Windrush generation shows that, where errors occur, it can lead to devastating consequences for individuals and their families. We are also concerned about the potential for fraud and the incentive for individuals to be exploited if they cannot persuade an employer or landlord of their status. (Paragraph 48)
9. The Home Office has said the digital code system will be less resource intensive, reduce fraud and be simple to use. We are concerned that the Home Office is introducing a new system on a large scale, and which relies upon employers, or landlords, understanding and embracing a new way of working. This might work well for many, but for some the risk of a civil penalty for employing or renting to someone without the correct immigration status, and a lack of understanding of the new system, may deter them from employing or renting to EU citizens, or create difficulties in enabling their status in other circumstances to be confirmed. We call on the Government to issue a physical document to EU citizens. (Paragraph 49)

10. We welcome the Immigration Minister's recognition that some EU citizens living in the UK will face linguistic challenges in dealing with standard application forms designed to accept only English. This is a real concern where the application form may ask for names in a different format to how it is displayed in their passport, or other identity document. (Paragraph 61)
11. We welcome the Government's position that it will protect carers and children who might not be covered by the Withdrawal Agreement or have acquired rights through EU case law and would otherwise be at risk of losing their ability to demonstrate their right to reside in the UK. The Home Office has said it may have to legislate to provide this protection and will provide further information in due course. We look forward to these commitments being given legal effect. (Paragraph 64)
12. The fee for Settled Status applications has been a factor in the negotiations. The EU-UK December Joint Report said that residence documents will be issued free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents. The Minister told us that the UK and the EU have agreed to a fee being charged for each application. The cost—£65 and £32.50 for children—is the same as the cost charged by the Home Office for permanent residence applications. We welcome the reduction in cost for children and ask the Home Office to consider a comparable reduction for retired people. We welcome the assurance that the Home Office will produce an impact assessment explaining the costs of the Settled Status scheme and look forward to its publication at the earliest opportunity. We call on the Home Office to ensure that this impact assessment examines the likely effect of the fee on the take-up of the settled status scheme. It should review its policy if the impact assessment indicates that take-up would be substantially negatively impacted by the charging of a fee. The European Parliament has maintained that the application should be free; and we would support this position, but only if it were to be reciprocated to the extent that no charges would be imposed on UK citizens in the EU to regularise their status. We are concerned that persons who came to the UK in good faith, in exercise of their right of freedom of movement and with the reasonable expectation that they could continue to do so without charge, should have to pay a fee to apply for a status that is being retrospectively applied to them. If employers choose to reimburse their staff for the cost of any application for Settled Status this should not be classified as a benefit in kind. (Paragraph 68)
13. The UK Government has said it wants EU citizens in the UK to stay. The provision of information relating to the new scheme will be of paramount importance in ensuring its success. There are two clear audiences that need to know why it is necessary and how it will work: EU citizens currently resident in the UK and those who may have reason to ask a EU citizen to demonstrate their immigration status. The 3 million European citizens are spread throughout the UK, including many remote and rural locations. They may not all be connected to the internet or have a good mobile telephone signal. Many do not currently understand that applying will be necessary to regularise their status in the UK. It would be regrettable if there was a low take-up for the scheme due to a lack of awareness. (Paragraph 76)

14. The Home Office will not be the only body delivering any information campaign. We welcome the engagement that the Home Office has started with Embassies, consulates, user groups, and local authorities. It will be very important to disseminate information through representatives of the various European communities established in the UK so that the message can be amplified to the people who need to apply. The Government should consider how it might provide additional resources to such community organisations that will be doing valuable work on the Government's behalf. (Paragraph 77)
15. It is clear that the Home Office is moving towards greater reliance on digital methods to carry out its work. It has invited EU citizens to sign up to email alerts to keep abreast of the Settled Status scheme. Bearing in mind the scale and diversity of the settled EU population in the UK, it is important that the Home Office utilise a variety of media to make sure they get their message across. For example, given that many EU citizens travel back and forth, and will do so during the transition period, a cost-effective measure would be to publicise the scheme via transport operators and ticketing agencies. (Paragraph 78)
16. There needs to be clear guidance on what the threshold is for not being awarded Settled Status on the grounds of criminality. Such guidance for applicants and Home Office caseworkers will help ensure fair and consistent application of the law. The Government has said it wants all EU citizens in the UK to apply for the Settled Status. We do not want large numbers of people to be deterred because they fear a minor or old conviction would disqualify them before they have even applied. But it is right that the Government should know about the serious criminal convictions of someone applying for settled status in order to decide whether it should be refused. Importantly, clear guidance will encourage EU citizens in the UK to feel they can apply and be treated fairly. In turn, this should also reduce the potential number of appeals. (Paragraph 81)
17. There is understandable concern that appellants might not have access to all the data that the Home Office has used to form a decision on their application. This may lead to individual circumstances where EU citizens are denied Settled Status and the applicant is unable to challenge a refusal without access to the evidence which led to the decision. We therefore call upon the UK Government to waive the data protection exemption to EU citizens and give them full access to their Home Office files in cases where their application is rejected. (Paragraph 85)
18. A test version of the online site is expected to be available in Autumn 2018 and open to all by March 2019. We note the difficulty in anticipating the rate at which people might apply once the online Settled Status scheme is operational. Similarly, it is difficult to anticipate the number of EU citizens who might not have applied by the end of the transition period. For those who arrive before 31 December 2020—the end of the transition period—but do not submit an application, the Government has offered a six-month grace period. In addition, the Government has said it will take a 'proportionate response' to those who apply after the deadline through 'no fault of their own'. (Paragraph 91)

19. However, the scale of the task means that if even a small proportion of those eligible to apply do not do so, or are refused, there is a risk of a large number of EU citizens in the UK by July 2021 not having certainty as to their legal status. The UK Government needs to set out what it would do with thousands of EU migrants unable to demonstrate their legal status. (Paragraph 92)
20. While we welcome the spirit of the Government's approach to those who apply after the end of the transition period, it is not certain what will be required of an EU citizen entering the UK after transition. The Government's White Paper published on 12 July says that free movement will end when the UK leaves the EU and describes an aspiration to a future labour mobility framework. We look forward to taking evidence on this fundamentally important aspect of the future UK-EU relationship as the negotiations progress. (Paragraph 93)
21. The Immigration Minister told us that she was confident that the Independent Chief Inspector of Borders and Immigration (ICIBI) will be able to carry out the role of safeguarding the rights and EU citizens in the UK, until the Independent Monitoring Authority (IMA) is ready. We are not as confident that the ICIBI is entirely suitable for the role, and fulfils the requirements set out in Article 152 of the draft Withdrawal Agreement. Part of the reason for the delay is that the IMA will require primary legislation to pass through Parliament before it can be operational. However, this should not stop the UK Government from providing detail in relation to the IMA's powers, procedures and resources. This is vitally important to instil confidence in the process, particularly given concerns expressed about the ability of the Home Office to manage such a task effectively. We look forward to receiving an update in writing on the work being carried out. (Paragraph 100)
22. Irish citizens in the UK have a unique set of rights. As they have the option of applying for Settled Status and may find it easier to exercise some of their rights if they have Settled Status, we recommend the Government sets out detailed guidance to clarify the situation and avoid uncertainty. Given their special status we do not think any Irish citizen should be charged a fee to apply for settled status. (Paragraph 106)

### Ring fencing citizens' rights in the event of no deal

23. The Withdrawal Agreement is not finalised. While we welcome the positive statements from the Ministers that they would honour their commitments to the EU in the UK in the event of no deal, more could be done to provide reassurances as to how this would be put into legal effect. The Withdrawal Agreement contains protections for EU citizens in the UK and for UK citizens in the EU. However, in the event of No Deal, there would be uncertainty around establishing the right to reside and work and the right to return after a period of absence. There are also protections built into the Withdrawal Agreement which would be lost, such as the right to refer cases to the CJEU for eight years. (Paragraph 112)
24. We welcome the Home Secretary's clear commitment that EU citizens living lawfully in the UK will be able to stay in the event of No Deal, and call on Member States to make similar public commitments to assure all UK citizens living in their territory that their rights will also be safeguarded in such circumstances. We note that the European Parliament has pursued this issue and we trust that they will continue to do so. (Paragraph 113)

# 1 UK citizens in the EU

---

## The Withdrawal Agreement negotiations so far

1. On 18 March, the European Commission published its third draft legal text for the Withdrawal Agreement (WA) and announced that it had reached “complete agreement” with the UK on citizens’ rights. On 19 March 2018, David Davis and Michel Barnier said that the chapter of the draft WA on citizens’ rights had been finalised.<sup>1</sup>

2. Following the March Council, the British in Europe organisation<sup>2</sup> listed what had been agreed:

- Those legally resident up to the end of transition can continue to reside in the state where they live. For UK citizens in the EU, this will be under current rules as in EU law, unless the EU Member State chooses to introduce an alternative application system, like the UK settled status;
- A right of return for up to five years for those with Permanent Residence;
- Reciprocal healthcare (for those who have an S1 form), aggregation of social security contributions (before and after the effective date), and lifetime export of uprated pensions;
- Partial agreement on the recognition of professional qualifications—but only in the country where the decision to recognise was issued;
- Frontier workers—living in one country and working in another country on the specified date—will still have the right to work in each country;
- Aspects of family reunion (spouse, civil partner, direct ascendants/descendants) for those protected under the WA, and for life. Children born after the effective date are protected if the parents are protected. Excludes children born after transition if one parent residing outside the host state, or a third country national;
- The rights in the WA are binding and can be relied upon directly before the courts;
- Agreement on the WA will mean a transition period between 30 March 2018 and 31 December 2020—and anyone who arrives during this period will be covered by the WA.<sup>3</sup>

---

1 Department for Exiting the European Union, [David Davis’ statement: EU-UK Article 50 negotiations Brussels](#), 19 March 2018 and Commission, [Press statement by Michel Barnier following the latest round of Article 50 negotiations](#), 19 March 2019; European Commission, [draft Withdrawal Agreement](#), 19 March 2018. Part two of the draft (articles 8–35) deal with citizens’ rights.

2 [British in Europe](#)

3 [British in Europe, Where does the March Agreement leave me?](#) March 2018

3. The British in Europe also listed several matters that had not been resolved:
- Whether UK citizens in the EU will be able to continue to benefit from freedom of movement and the associated rights—to move, reside and work in the EU27 other than in the country of their residence. UK citizens in the EU may be subject to rules on third country nationals, depending on the future EU-UK relationship;
  - the right to provide cross border services as self-employed people;
  - the recognition of some professional qualifications—EU wide decisions not covered;
  - some aspects of family reunion—the right to be joined by future spouses will be subject to national law. The right to return to the UK with a non-UK spouse will be subject to UK domestic law;
  - there are no clear guarantees that the agreement would be ring fenced in the event of no deal.<sup>4</sup>
4. We took evidence from British in Europe representatives resident in Germany, Luxemburg, France and Spain, who agreed that the chapter on citizens' rights was not, in their view, finalised. Michael Harris, of EuroCitizens Spain, told us:

In the beginning, both May and Barnier said all our rights would be guaranteed. [...] If you look at the Foreign Office website, it says, “The deal has been done. Citizens’ rights are guaranteed. You have nothing to worry about”, and the European Union is saying the same, so we feel that we are hostages of both sides and we are not getting much support. We are not getting much support among MPs. We are getting more support in the European Parliament, which put one of the red lines for approving the withdrawal agreement as freedom of movement for Britons in Europe. They are the ones who are doing it.<sup>5</sup>

5. On the 7 March 2018, the European Parliament said it would insist that, for those covered by the WA, there should be “future free movement rights across the whole EU for UK citizens currently resident in an EU-27 Member State” alongside the lifelong right for EU citizens to return to the UK, continued voting rights in local elections, and protection against expulsion of disabled citizens and their carers.<sup>6</sup>

### Continuing free movement and associated rights

6. On the basis of the current draft of the WA, from 31 December 2020, UK citizens resident in an EU Member State will not enjoy onward freedom of movement throughout the EU-27.<sup>7</sup> Evidence from British in Europe said that in September 2017 the UK offered to grant an unlimited right to return to EU citizens in the UK in exchange for continuing freedom of movement for UK citizens in the EU. This offer was “neither accepted or finally rejected at the time.”<sup>8</sup> British in Europe have said that the matter has not been raised again

4 [British in Europe, Where does the March Agreement Leave Me?](#) March 2018

5 Q1967

6 [European Parliament, Motion for a resolution to wind up the debate on the framework of the future EU-UK relationship, 7 March 2018](#)

7 [British in Europe, Where does the March Agreement leave me?](#) March 2018

8 [British in Europe written evidence NEG0021](#)

in the negotiations at a senior level, and have been told that “the EU-27 do not have a red line over this issue,” and are open to discussing it.<sup>9</sup>

7. Michael Harris, Chair EuroCitizens and resident of Spain, said his members were “very angry with both sides” but at the moment they feel the UK Government is not defending them because the UK Government has not brought the issue to the table since December.<sup>10</sup> Asked why UK citizens resident in the EU now should be considered differently to UK citizens in the UK who might wish to assert their free movement rights in the future, Jane Golding, Co-Chair, British in Germany, and Chair, British in Europe, explained that there is a finite group of people, those UK citizens who have moved to another Member State, and therefore have “exercised their rights of free movement”:

Under EU law and EU case law, that therefore means we have activated rights, which would then be removed from us. That is the point. There is a difference under EU case law between somebody who has stayed in the UK and never exercised their rights, and somebody who has moved to another EU country.<sup>11</sup>

She said that the ability to continue moving between Member States was relevant as “nearly 80% of the British in Europe are working people.”<sup>12</sup> Fiona Godfrey, Chair, British Immigrants Living in Luxembourg, and Deputy Chair, British in Europe, spelled out that living in a small country meant it was really important that she could easily get to Belgium, France or Germany, for common activities such as shopping or to visit family, but also to access healthcare and work, describing free movement as “not a nice-to-have but an absolutely-essential-to-have.”<sup>13</sup>

8. Jane Golding said that following recent meetings in Brussels—with the Commission, the Council and the European Parliament—and officials and politicians in the EU-27, the view of British in Europe was that “all that needs to happen is for the question of continuing free movement to be put back on the table,” and that the EU-27 were surprised that it hadn’t been.<sup>14</sup> Fiona Godfrey said the British in Europe understanding is that the UK Government needs to make the request “not at a technical level but at a political level.”<sup>15</sup>

9. When asked about the European Parliament’s stance on continuing free movement and the barriers to an agreement, Guy Verhofstadt MEP, Brexit Coordinator and Chair, Brexit Steering Group, European Parliament, said

The resistance comes from countries that think that sovereignty is more important than European policies [...] Some member states are saying, “That is my business. I give permits”. Others said, “A permit given there in Germany is not valid in Spain”. We say, “Sorry, we live in the European Union, so let us make an agreement on this that what is valid in one country is valid in the whole European Union”.<sup>16</sup>

---

9 [British in Europe written evidence NEG0021](#)

10 Q1967

11 Q1971

12 Q1970

13 Q1972

14 Q1974

15 Q1976

16 Q2097–2100

Mr Verhofstadt also explained that pressure from the European Parliament and the UK Government succeeded in removing Article 32 from the draft Withdrawal Agreement, an article he described as “a very negative article”.<sup>17</sup>

10. In our report on the progress of negotiations for the period December 2017 to March 2018,<sup>18</sup> we called on the UK to repeat its offer to allow unlimited return for EU citizens in the UK in return for UK citizens in the EU retaining free movement, alongside associated rights such as recognition of professional qualifications and the right of establishment. On 24 January 2018, the then Secretary of State, the Rt Hon David Davis MP, told this Committee:

That has been a sticking point, but the impression one was given was that the sticking point is that this is a future matter and they want to hold back on it. [...] This will interact quite closely with whatever deal we do on services, professional services in particular. The right to move around will be quite an important part of that. We have to read their mind a bit here, but it may well be that they are holding that back as a bargaining chip for that part of the negotiation, which is not necessarily a bad sign.<sup>19</sup>

11. When we returned to the subject on 25 April 2018, David Davis said that “We have to return to the citizens’ rights issue under the ongoing relationship arrangement” and that:

we will be raising other issues via the Union, and onward movement is one. When we deal with that, we are going to have to address the practicalities of how it is done, because it will then have more complex practicalities than we are facing with the 3 million here. We have not got to that point yet.<sup>20</sup>

12. The European Parliament has said in several resolutions that it considers continuing free movement for UK citizens in the EU a “red line” for them and it must be in the WA.<sup>21</sup>

13. Caroline Nokes MP, Immigration Minister, told us that the UK had negotiated with the EU about UK citizens living in the EU 27 and their rights of free movement and “the EU refused to agree that.”<sup>22</sup> In its White Paper on the Future Relationship, published on 12 July, the Government confirmed that it would continue to “seek to secure onward movement opportunities for UK nationals in the EU who are covered by the citizens’ rights agreement.”<sup>23</sup>

---

17 Qq 2097–2099. Article 32 of the Withdrawal Agreement had stated, “In respect of United Kingdom nationals and their family members, the rights provided for by this Part shall not include further free movement to the territory of another Member State, the right of establishment in the territory of another Member State, or the right to provide services on the territory of another Member State or to persons established in other Member States.”

18 The progress of the UK's negotiations on EU withdrawal: December 2017 to March 2018, HC 884

19 Q763

20 Q1413–1414

21 Q1984. See also [European Parliament resolution of 14 March 2018 on the framework of the future EU-UK relationship](#)

22 Q2287

23 White Paper, The future relationship between the United Kingdom and the European Union, para 90

### *UK in EU–recognition of qualifications*

14. The ability of UK nationals currently resident in the EU to be able to continue working and using their professional qualifications will vary.<sup>24</sup> The then Secretary of State told the Committee in October 2017 that there was disagreement between the UK and the EU on professional qualifications. This was because the UK saw it as a matter of an individual's rights, whereas the Commission saw it as part of the future relationship.<sup>25</sup> Recognition of qualifications outside the country of recognition/residence across the EU-27 is likely not to be discussed further as part of the Withdrawal Agreement. Recognition of professional qualifications is linked to ongoing free movement if the professional is mobile and wishes to be able to work in more than one country. As Jane Golding told us: "If your qualification is not recognised, you cannot work."<sup>26</sup> Guy Verhofstadt told us that recognition of professional qualifications should be included in a detailed political declaration and that it "cannot be something that is hanging in the air for three years."<sup>27</sup>

**15. In our May Report on the Progress of the negotiations, we said that both sets of negotiators had failed to make it clear whether ongoing free movement rights for UK citizens in the EU would form part of negotiations and the future relationship between the EU and the UK. There are associated rights that will fall alongside the loss of free movement. These include the ability of some professionals to operate in more than one Member State, their ability to offer cross border services and the right to open a business in another Member State. We do not think these matters should be left wholly to the negotiations on the future relationship as this would mean a period of continuing uncertainty. We call on the UK Government to raise the matter again in the negotiations before the Withdrawal Agreement is finalised, and ask for an agreement on ongoing free movement within the EU27 for UK citizens currently resident in the EU. At the very least, it should be explicitly included in the political declaration.**

### **Registration of UK citizens in the EU**

16. In our May Report on the progress of the negotiations, we recognised that the Home Office was faced with "significant challenges" in delivering an orderly transition for EU citizens in the UK, but that it has taken steps to establish a procedure for those affected and to enable EU citizens to acquire Settled Status/Leave to Remain. We commented further that there was "little sign" that the same level of organisational planning has started among the EU-27.<sup>28</sup>

### ***Current systems to demonstrate right to residence***

17. Currently, UK nationals have a number of ways to prove legal residence in the EU-27: registration, a residence permit, permanent residence, and citizenship.<sup>29</sup> These differ in terms of the level and types of documentation required, as well as the rights granted to

24 British in Europe, [Where does the December agreement leave me?](#)

25 Oral evidence 25 October 2017, Q139

26 Qq 1980–1983

27 Q2102

28 The Committee recommended that the Government seek further clarification from the EU-27 on their work on operational requirements for any registration systems and on what timeframes UK citizens will be required to meet. See [The progress of the UK's negotiations on EU withdrawal \(March to May 2018\)](#), HC 1060, 24 May 2018

29 Migration Policy Institute, [Next Steps: Implementing a Brexit Deal for UK Citizens Living in the EU-27](#), April 2018, p.14

the holders. UK nationals may be asked to go through additional processes and provide evidence to establish who has a legal right to residence, whatever their post-exit status will be. In the Netherlands all residents are legally required to register and there are clear incentives to do so (e.g. to be able to open a bank account or visit a doctor). France does not have a municipal registration system but EU nationals can ask for an optional residence permit.<sup>30</sup> Kalba Meadows, Founder, Remain in France Together, said the French administration is decentralised and has 95 offices dealing with registration, each of which interpret general advice from central government their own way and operate “a slightly different system. Each [office] requires slightly different documents.”<sup>31</sup>

18. British in Europe surveyed their members in 26 Member States<sup>32</sup> and found general satisfaction with the registration process that existed in their host state. There was a high rate of successful first registrations on entering the country, ranging from 87.4% in France (voluntary registration) to 100% in Bulgaria, Croatia, Denmark, Estonia, Hungary, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovakia and Slovenia.<sup>33</sup>

19. The process for UK nationals to assure their status in EU-27 Member States is not enshrined in the Withdrawal Agreement, but will be left to individual countries' discretion. The draft Withdrawal Agreement allows each EU-27 Member State to choose between a declaratory or a constitutive system for 'certifying' rights of UK citizens in their territory after exit.<sup>34</sup> In March 2018, British in Europe expressed concern that the Withdrawal Agreement gave the impression that the constitutive system is the default, but it is not clear whether any EU country will choose to impose this system.<sup>35</sup> If they did, this could create problems for British migrants, such as what documents would be required to prove the date they entered the country.<sup>36</sup>

20. However, any Member State that did create a new system would raise particular concerns for some communities. We heard of concerns about the British in Spain, including “the Swallows” who spend part of the year in the UK and part in Spain, and who may not be aware of the need to register.<sup>37</sup> And in France, where registration system is inconsistently applied—for example, some offices require appointments and some do not—and there is a lack of information on the procedure. Kalba Meadows said that support for the British in France was “largely being done by voluntary groups”, which she felt was inappropriate as they “do not have the resources and it should not be [their] job to do it.”<sup>38</sup>

21. Most EU-27 countries have fewer than 100,000 British people on their territory so it is unlikely they would want to invest in entirely new systems, particularly if they already have a satisfactory registration system in place.<sup>39</sup> Jane Golding, from British In Europe, said “We have been pushing for a simple extension of the existing registration systems.”<sup>40</sup>

30 Migration Policy Institute, [Next Steps: Implementing a Brexit Deal for UK Citizens Living in the EU-27](#), April 2018

31 Q1956

32 Ireland was excluded because of the different arrangements in place for UK nationals

33 Q1958. [Written evidence submitted by British in Europe NEG0021](#)

34 The declaratory system confirms the rights that already exist. If an EU country adopts this system, a UK national in that state will be *able to apply* for a residence document to demonstrate their status. In a constitutive system, similar to the proposed UK 'Settled Status' for EU citizens in the UK, a UK national will *have to apply* for a new status.

35 British in Europe, [Where does the March Agreement leave me?](#)

36 MPI report, [Next Steps](#), pp.22–25. See also British in Europe NEG0021 paras 23–35

37 Q1955

38 Q1991

39 Qq2288–2289

40 Q1965

On 25 May 2018, a meeting of officials from ten EU countries took place in Brussels to consider how to approach the status of UK nationals in the EU before the end of the transition period. Media reports from the meeting suggested that member states favoured a “smooth and simple” approach, and that imposing a “mandatory system on British nationals in their country would prove an unnecessary complication and expense.” A follow-up meeting on the issue is expected in September.<sup>41</sup>

22. In a letter to Guy Verhofstadt, the Home Secretary said:

The UK Government is equally committed to the interests of UK nationals living and working in the EU, and we would welcome further details on how the administrative procedures will be enacted in other Member States. It is currently unclear what systems other EU Member States are creating to ensure the rights of UK nationals in their countries are protected after the end of the implementation period and we would welcome it if the European Parliament were also willing to focus attention on Member States' plans.<sup>42</sup>

In response, Mr Verhofstadt wrote:

Your concerns on this [preparations in other Member States] are shared by the Brexit Steering Group. While preparations have started, a lot of work still needs to be done and we will scrutinise developments. In this context I have asked Member States to inform the Brexit Steering Group in detail as to where those preparations have got to. You can be rest assured that the European Parliament attaches equal importance to guaranteeing the rights of UK citizens in the other Member States.<sup>43</sup>

The Immigration Minister confirmed to us that she would like to see EU Member States speed up their preparations to provide certainty to the UK in the EU.<sup>44</sup>

**23. We welcome the efforts made by the Home Secretary and the Immigration Minister to seek more information about registration of UK citizens from their counterparts among the EU. We note that the European Parliament Brexit Steering Group has joined the call for Member States to set out preparations for how they will approach the registration of UK citizens on their territory. We repeat our previous recommendation to the UK Government to seek urgent clarification from the EU-27 as to their preparations to regularise the status of UK citizens on their territory. Any requirements need to be made public by EU Member States and disseminated widely as soon as possible. UK citizens living in other EU countries cannot be left in the dark as to how they can secure their rights.**

---

41 [Written evidence from the British in Europe NEG0021, Guardian, Majority of EU27 favour 'simple' approach on Britons' residency, 25 May 2018](#)

42 Letter from the Home Secretary to the European Parliament Brexit Coordinator, 16 May 2018

43 Letter from European Parliament Brexit Coordinator to the Home Secretary, 3 July 2018

44 Q2289

## Voting rights

24. During phase 1 of the negotiations, the UK and EU produced a joint technical note comparing the two sides' positions on citizens' rights. The September 2017 joint note described the positions with regards to voting and standing in local elections as follows:

- EU position - Member states are free to give voting rights to third country nationals regardless of the WA.
- UK position - UK wants to protect existing rights of UK/EU citizens to vote and/or stand in local elections in their host state.<sup>45</sup>

The December joint note did not include any reference to maintaining existing rights to vote and/or stand in local elections. We note, although this was not mentioned in the joint note, that EU citizens are also currently eligible to vote and stand in elections to the devolved Scottish Parliament and Welsh and Northern Irish Assemblies.<sup>46</sup> In front of the committee on 24 January 2018, the then Secretary of State, David Davis MP, described the issue as a “sticking point” in the negotiations, with the Commission position being that it was a matter for the UK and individual Member States.<sup>47</sup>

25. British in Europe said they were aware of nine EU Member States which allow third country nationals to vote in local elections.<sup>48</sup> Michael Harris, a UK citizen who lives in Spain—which has the largest population of UK citizens in Europe—said that he will not be able to vote next May in the Spanish local elections. He thought it could “be sorted out pretty quickly” bilaterally between Spain and the UK and “it just needs to be done.”<sup>49</sup> He said that communities with large numbers of Britons—he gave the example of the town of Arboleas, in Almería, where 75% of the population is British—would be affected if that large a number of taxpayers were disenfranchised.<sup>50</sup>

26. Caroline Nokes MP, the Immigration Minister, told us that voting rights was not something the EU would agree reciprocity on. She said that the Cabinet Office were responsible for making a decision as to whether the UK would make an offer to EU citizens here as to whether they can vote in the UK in the future.<sup>51</sup>

**27. The Immigration Minister told us that the EU has declined to consider a reciprocal agreement for the continuation of voting rights as part of the Withdrawal Agreement negotiations. This is highly regrettable. Unless the negotiations change this position, the UK will have to secure bilateral agreements with each Member State. We look forward to hearing how the UK intends to take this forward and call on Member States to respond positively. We trust that the UK Government and devolved administrations will continue to enable EU citizens living in the UK to stand and vote in local elections and in elections to the Scottish Parliament, Welsh and Northern Ireland Assemblies.**

45 [Gov.uk, Comparison of EU/UK positions on citizens' rights, 28 September 2017](#)

46 For example, The Electoral Commission, Scottish Parliamentary Election, Guidance for candidates and agents, 2016; The Electoral Commission, National Assembly for Wales, Guidance for candidates and agents, 2016

47 [Q762](#)

48 [Written evidence from the British in Europe NEG0021](#)

49 [Q1995](#)

50 [Q1990](#)

51 [QQ2201–2204. Local Government: Elections: Written question - 129820 28 March 2018](#)

## Dual nationality

28. Some countries do not allow dual citizenship and some that do only allow dual citizenship with caveats, or impose administrative, financial, and language proficiency barriers.<sup>52</sup> Michael Harris explained that Spanish citizens can have dual nationality, but UK citizens in Spain cannot apply dual citizenship. He pointed out that civil servants in Spain have to be EU citizens, so UK citizens in those roles—if they cannot get dual nationality—will have to renounce their British nationality.<sup>53</sup> Evidence from the British in Europe said:

Taking citizenship in the country of residence is not a panacea to solve all issues, although many are contemplating or taking this route because they rely on EU citizenship rights, in particular free movement, for their livelihoods.<sup>54</sup>

Applications from UK nationals for citizenship in other member States have increased since the EU referendum. In 2017 a total of 13,141 UK citizens obtained the nationality of one of the 18 Member States for which the BBC has acquired figures, compared with 5,056 in 2016 and only 1,826 in 2015.<sup>55</sup> In April 2018, the Home Office raised the fee it charges for a British person to renounce their citizenship from £321 to £372.<sup>56</sup>

**29. The rules on dual citizenship differ between Member States, and it is not practicable in all circumstances for British citizens in the EU to apply for dual citizenship in their host state—for example Austria, Estonia, Lithuania, Netherlands and Slovakia do not allow dual nationality. In the absence of an agreement enabling them to continue to benefit from free movement, some may have to choose to renounce their British citizenship and apply to become a citizen of their host country to enable them to continue to live their lives as now. This would be unacceptable and we urge Member States, and the European Parliament, to look at this issue so that UK citizens can maintain their rights without having to renounce their citizenship in the event of there being no Withdrawal Agreement.**

---

52 MPI report, Next Steps, pp.20–21

53 Q1990

54 [Written evidence from the British in Europe NEG0021](#)

55 BBC News, [Surge in Britons getting another EU nationality](#), 30 June 2018

56 [The Independent, Government hikes fees to renounce British citizenship after Brexit foreign nationality surge, 28 May 2018](#)

## 2 EU citizens in the UK

---

### The EU Settlement Scheme

#### *Applying for Settled Status*

30. EU citizens who have continuously exercised their rights under EU law for five years acquire the right to permanent residence. Once they acquire this right, they can apply for a document to attest their status if they choose to. In its Second Report of the 2015–17 session, our predecessor Committee drew attention to the UK's 85-page application form for permanent residence—the average across 25 European countries for an equivalent application was four pages—and to the high proportion of applications that the Home Office had refused or declared invalid. The Committee concluded that the process for permanent residency applications was not suitable for handling applications from three million EU citizens in the UK.<sup>57</sup>

31. In her statement to the House on 26 June 2017 following the European Council, the Prime Minister said that reciprocal agreement had been reached on citizens' rights and that a new:

system of registration that citizens go through will be as streamlined and light-touch as possible, and we intend to remove some of the technical requirements currently needed to obtain permanent residence under EU rules. For example, we will not require anyone to demonstrate that they have held comprehensive sickness insurance.<sup>58</sup>

32. EU citizens in the UK can still apply for a permanent residence certificate as a step to citizenship, but applicants are still being refused for reasons such as not having comprehensive sickness insurance.<sup>59</sup> As Nicholas Hatton, Co-Chair of the3million, told us, this means that people are eager for the new system:

We are asking why this approach cannot start now. Why wait? There is a lot of anxiety among EU citizens because of the refusals of permanent residence applications.<sup>60</sup>

33. The Government set out a Statement of Intent for the new system on 21 June 2018.<sup>61</sup> To acquire Settled Status, applicants will need to:

- access the digital application process;
- pay a required fee;
- provide proof of identity; and
- upload a facial image.

---

57 [Second Report of Session 2016–17, The Government's negotiating objectives: the rights of UK and EU citizens, 5 March 2017, HC 1017](#)

58 [Gov.uk, PM Commons statement on European Council: 26 June 2017](#)

59 [Written evidence from the3million NEG0022](#)

60 [Q1919](#)

61 [EU Settlement Scheme: Statement of Intent](#)

The online application form will be “short, simple and user-friendly” and applicants will need to demonstrate:

- (1) that they are an EU citizen or family member.<sup>62</sup>
- (2) their continuous residence in the UK. The Government has published a draft list of the type of documentary evidence which the applicant will be able to provide of their continuous residence in the UK, which includes:
  - preferred evidence (annual bank statements, business accounts, P60, letters from employers, education providers or care homes, mortgage or tenancy agreements, council tax bills);
  - alternative evidence (dated payslips, bank statements, invoices, bills, letters from GPs, government departments, passport stamps and travel tickets);

The Government's draft list includes examples of what it considers to be unacceptable evidence, such as references from family and friends, photographs, postcards, scrapbooks, or multimedia evidence.<sup>63</sup>

The Government has said that it will automatically draw on HM Revenue and Customs (HMRC) and Department for Work and Pensions (DWP) data.<sup>64</sup>

- (3) Criminal checks. The application will ask people to self-declare convictions which will be checked against the UK's crime databases. Police checks will be carried out on all applicants over 10 (parents fill in the form for children). Criminal convictions before the end of transition on 31 December 2020 will be assessed according to the current EU public policy tests. We discuss this in the criminal record checks section below.

Subject to criminality and security checks, the applicants who can demonstrate five years residence will be granted Settled Status (indefinite leave to remain). Otherwise, they will be granted pre-settled status (limited leave to remain) subject to criminality and security checks, while they accumulate the necessary five years residence.<sup>65</sup>

34. The Immigration Minister, Caroline Nokes MP told us that:

We want it to make it as wide a range of evidence as possible. One of the reasons why we have laid the immigration rules and the statement of intent [was to enable] people to look at what we are putting forward, the wide range of things that can be included, and indeed come to us with suggestions of what could be used additionally.<sup>66</sup>

62 Non-EU citizen family member will have to provide proof of the continuous residence of their EU family member

63 Statement of Intent, [EU Settlement Scheme: Statement of Intent](#), Annex A

64 Where the automated checks of HMRC and DWP data do not indicate continuous residence, the applicant will then be asked to upload documentary evidence, or evidence that they are in one of the categories eligible for settled status with less than five years' continuous residence

65 Leave to remain is permission given by the Home Office to remain in the UK. It may be time limited, and conditions may be attached, such as restrictions on the ability to seek employment and a requirement to not rely on public funds. Indefinite leave to remain (ILR) is a form of immigration status given by the Home Office that gives permission to stay in the UK on a permanent basis.

66 [Q2281](#)

She indicated that the Government will be testing the system at scale during the autumn. She anticipated that it will be introduced in phases towards the end of 2018 before being fully open by March 2019.<sup>67</sup>

### **Home Office approach to applications**

35. The Government states that it will work with applicants to help them avoid any errors or omissions that may impact on the application decision. Caseworkers will have scope to engage with applicants and give them a reasonable opportunity to submit supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. On 21 June 2018, while announcing the Statement of Intent, Caroline Nokes, said:

Throughout the process, we will be looking to grant applications, not for reasons to refuse them, and caseworkers will be able to exercise discretion in favour of the applicant, where appropriate, to minimise administrative burdens.<sup>68</sup>

36. The Statement of Intent does not set out how long it will take to process each application, but the previous Immigration Minister, Brandon Lewis MP, said last December that applicants would get a decision within two weeks,<sup>69</sup> and the Secretary of State, Rt Hon Sajid Javid MP, has said that the Home Office is increasing European caseworker staffing levels from 700 to 1500.<sup>70</sup> Mark Doran, Deputy Director, EU Exit Immigration Strategy at the Home Office, told us that they are hoping to have real-time information displayed on the first application page to help manage demand.<sup>71</sup>

37. Caroline Nokes, told us that:

discretion being given to caseworkers is a new concept, but that is why we are onboarding caseworkers early, why they will receive comprehensive training, and it is important to us that we recognise that this is an offer that we have made to EU citizens that we will stand by and we want this to be as easy a process as possible. We expect most people to achieve their settled status with a minimum of problems.<sup>72</sup>

[...] it is, I think, absolutely incumbent upon us that we make sure there is comprehensive training of caseworkers. The requirements for settled status are so significantly lower in terms of ID, residency and non-criminal behaviour that I think it should be perfectly reasonable within the timescale to have caseworkers up to speed and able to make these decisions.<sup>73</sup>

---

67 [Q2220](#)

68 [HC Deb 21 June 2018, col 509, EU Settlement Scheme](#)

69 [House of Lords, EU Justice Sub-Committee, Oral evidence on Tuesday 12 December 2017, Q10](#)

70 [Q20](#)

71 [Q2302](#)

72 [Q2294](#)

73 [Q2296](#)

### *Evidence of Settled Status*

38. The Government has previously said, in June 2017, that EU citizens in the UK will need to apply to the Home Office for immigration status in UK law, and that this will be evidenced through a 'residence document'. The Government has stated that:

This will be a legal requirement but there is also an important practical reason for this. The residence document will enable EU citizens (and their families) living in the UK to demonstrate to third parties (such as employers or providers of public services) that they have permission to continue to live and work legally in the UK. [...] As such, without a residence document, current residents may find it difficult to access the labour market and services.<sup>74</sup>

39. Similarly, following difficulties encountered by members of the Windrush generation and the 'Hostile Environment' policies, the Government launched the Windrush Scheme. The first paragraph of the Home Office document outlining who is covered by the Windrush Scheme said:

People who arrived in the UK many years ago and do not have documentation confirming their immigration status have faced difficulties in proving their right to work, to rent property and to access benefits and services to which they are entitled. The Government has apologised to people in this position and has made a commitment to help them get the documents they need.<sup>75</sup>

40. Since 2008, the UK has gradually introduced the regulations requiring non-EU immigrants to apply for biometric immigration permits (or Biometric Residence Permits - BRPs).<sup>76</sup> The current position is that anyone applying for leave to remain for longer than six months must have a biometric immigration status document.<sup>77</sup> It is common for landlords and employers to be asked to check the immigration status of a tenant to ensure they can legally rent a residential property in England, or employ someone. Those who rent to, or employ, someone here illegally, could be liable to a civil penalty. It is possible to avoid the penalty if they can show they made "checks and retain[ed] copies as required".<sup>78</sup> Commonly accepted forms of identification asked for as evidence of immigration status are UK passport, an EEA national passport or identity card, or a Biometric Residence Permit with unlimited leave.<sup>79</sup>

41. EU citizens who are successful in acquiring Settled Status will not receive a physical document, but instead will receive confirmation in digital form.<sup>80</sup> In evidence to this Committee on 6 June 2018, Anne-Laure Donskoy, Co-Chair of the 3million, said EU citizens "absolutely need a document that we can have in our hands and in our pockets." She raised concerns over the willingness of some landlords to engage with a digital code, and in potential difficulties accessing public services. Barbara Drozdowicz, from

74 [Policy paper, The United Kingdom's exit from the European Union: safeguarding the position of EU citizens living in the UK and UK nationals living in the EU, 26 June 2017](#)

75 [The Windrush Scheme](#)

76 Sections 5–15 of the UK Borders Act 2007

77 [Biometric residence permits](#)

78 For landlords, the penalty ranges from £80 for a first-time penalty for a lodger in a private household, up to £3,000 for a subsequent penalty of a tenant in rented accommodation.

79 [Home Officer, Right to Rent Document Checks: a User Guide, December 2016](#)

80 [EU Settlement Scheme: Statement of Intent, 21 June 2018, para 7.2](#)

the Eastern European Resource Centre (EERC), said it would be similarly difficult for engaging with employers.<sup>81</sup> the3million have expressed concern that those asked to make a simple digital check will be a deterrent and they will “choose to provide their services to someone with familiar (physical) documents.”<sup>82</sup>

42. The Government's Statement of Intent explains that the grant of Settled Status (indefinite leave to remain) or pre-Settled Status (limited leave to remain) will enable the applicant “to continue their lives in the UK much as before” including to work, study and access public services and benefits. EU citizens in the UK who are successful in securing Settled Status will be able to demonstrate this with a digital code and no physical document will be issued to them. The Statement notes that the UK has started using digital status to allow non-EEA citizens to prove their right to work, and that the Home Office “will monitor this and the digital status issued under the scheme.”<sup>83</sup> In contrast, non-EU family members who are successful in acquiring Settled Status, will receive the “digital means of evidencing their status” and “will also be issued with a biometric residence document” which:

will provide them with a convenient way of evidencing their status to those who may need to see confirmation of it, such as an employer, landlord or service provider.<sup>84</sup>

43. Caroline Nokes explained to us how the digital code would work in practice:

The individual citizen will be able to send a link via e-mail to the landlord [or employer], where they would be able to check it on a one-time basis only so that it remains secure. That would then confirm their rights in much the same way that digital status is already available for right-to-work checks.<sup>85</sup>

She also explained that those without access to PC, tablet or phone will be provided confirmation by letter:

but that is not a secure document and we have to be very conscious of that. This is one of the factors that we will work through. I do not have, off the top of my head, the number of people in this country who do have access to smartphones, PCs or tablets. Access is incredibly high but I am conscious that in the older-age spectrum there may be those who do not.<sup>86</sup>

44. Simon Bond, a Strategy Director at the Home Office, explained to us the advantages of a digital code over a physical document:

It prevents people from both over-sharing and under-sharing data, it is kept fully up-to-date, and it is far harder to abuse and have fraudulent applications on. Over time, that is what we would like to move to.<sup>87</sup>

Mr Bond said that the National Cyber Security Centre had assessed the system.<sup>88</sup>

---

81 [Q1947](#)

82 [EU Settlement Scheme: Statement of Intent An analysis by the3million](#)

83 [EU Settlement Scheme: Statement of Intent, 21 June 2018, para 7.2](#)

84 [EU Settlement Scheme: Statement of Intent](#)

85 [Q2205](#)

86 [Q2232](#)

87 [Q2212](#)

88 [Q2251](#)

45. In the past, the ability of a non-UK passport holder to demonstrate their immigration status has been to show a document such as a Biometric Residents Permit or a non-UK passport with an endorsement showing their status. This has been important to enable individuals to demonstrate their right to be in the UK to employers, landlords, and to access public services. The Government has acknowledged the difficulty in proving a right to work, rent or access public services, without documentation. Documents, such as endorsed passports or biometric cards, are understood as forms of identification and are likely to be the default document requested by a landlord or employer.

46. The Home Office has decided not to issue a hard document or endorsement on passports as evidence of Settled Status, but instead to send the successful applicant a digital code, which is then passed to an employer, or landlord, who would need to input the digital code into a Home Office website, enabling them to access information that confirms the individual's immigration status. We note that the preferred method is for the individual to have an electronic device—such as a smartphone or tablet to receive the digital code—and for the employer to also have access to an electronic device to be able to go online, and be willing to go through the process. The Government should clarify how employers and landlords are meant to take and keep copies of digital records of settled status as they are currently required to do for physical documents.

47. We have heard evidence from the EU citizens in the UK that they would prefer a hard document to be able to show their legal status and to minimise the chance of them experiencing discrimination. The evidence of the Windrush generation—where many people who were perfectly entitled to be in the UK but found it difficult to persuade others of this without physical documentary evidence—has heightened this concern.

48. The Minister told us that the Home Office has started to roll out online checking of digital status for right-to-work checks. We recognise that, in future, other groups of non-UK passport holders will be using similar digital processes as a matter of course to demonstrate their immigration status. However, we are concerned that this is a task of unprecedented scale for the Home Office and it is being done within a very tight time frame. The experience of the Windrush generation shows that, where errors occur, it can lead to devastating consequences for individuals and their families. We are also concerned about the potential for fraud and the incentive for individuals to be exploited if they cannot persuade an employer or landlord of their status.

49. The Home Office has said the digital code system will be less resource intensive, reduce fraud and be simple to use. We are concerned that the Home Office is introducing a new system on a large scale, and which relies upon employers, or landlords, understanding and embracing a new way of working. This might work well for many, but for some the risk of a civil penalty for employing or renting to someone without the correct immigration status, and a lack of understanding of the new system, may deter them from employing or renting to EU citizens, or create difficulties in enabling their status in other circumstances to be confirmed. We call on the Government to issue a physical document to EU citizens.

## Those who are unaware, do not apply or unable to satisfy requirements

### *Barriers to applications*

50. There are several categories of people who would be eligible but may fail to register for Settled Status. A report from the Migration Observatory suggested that these include:

- Children whose parents do not themselves apply, do not realise that children need to apply, or mistakenly believe that their UK-born children are automatically UK citizens,
- Very long-term residents;
- People who have already applied for Permanent Residence;
- People who believe they are ineligible, such as people who have previously been rejected for Permanent Residence or people with minor criminal convictions or cautions.<sup>89</sup>

In addition, there may be people for whom making the application process could be difficult, such as the victims of domestic abuse who might rely on a partner for evidence, those who have been trafficked or exploited by an employer, or people living in circumstances where they do not have stable housing. By their nature, it is difficult to quantify such groups.<sup>90</sup>

51. In evidence to this Committee, Ms Drozdowicz, from the East European Advice Centre (EERC), highlighted that vulnerable groups of EU citizens who will be especially difficult to engage with include children in care and people in care homes. She said the EERC has been working with the Home Office working groups around safeguarding of these risk groups but stressed that: “it is not clear to us what sort of support will be given to these particular vulnerable groups.”<sup>91</sup>

52. When it was suggested that the provision of immigration advice might assist in alleviating some of the concerns of vulnerable people, Ms Drozdowicz cautioned that this is often not available in rural areas:

Rural areas pretty much anywhere are deprived of immigration advice. Our worry is that, for example, eastern European EU nationals, such as agricultural workers, are effectively deprived of access to the advice and information.<sup>92</sup>

She wanted the UK Government to make sure EU nationals had access to information that is not only based on digital means. Ms Donskoy said that the Government had proposed a telephone helpline, but it was not clear whether calls would be free. She supported “local,

---

89 [Migration Observatory, Report, Unsettled Status? Which EU Citizens are at Risk of Failing to Secure their Rights after Brexit?, 12 April 2018](#)

90 [Migration Observatory, Report, Unsettled Status? Which EU Citizens are at Risk of Failing to Secure their Rights after Brexit?, 12 April 2018](#)

91 [Q1920](#)

92 [Q1943](#)

face-to-face access to legal advice and legal support.” She said that there was no legal aid, except only “in very special circumstances.” And the people in need would include victims of trafficking and victims of rape, who dare not report issues to the police.<sup>93</sup>

53. A further vulnerable group of residents are those who may struggle to provide documentation. There are people with chaotic lives, have become estranged from their spouse, or are homeless. They may not have any identification.<sup>94</sup> Ms Donskoy also drew attention to other citizens who may have ID documents but not have their names on any supplementary documents that prove they are resident.<sup>95</sup> The Migration Observatory has suggested groups who might struggle to provide documents could include:

- people without bank accounts, who are conducting their daily lives in cash (e.g. retirees or people looking after family). An estimated 3.4% of people age 18 and over do not have bank accounts.
- Non-working partners, unpaid carers, people working cash in hand and young people not in education, employment or training who also lack proof of address in their name. People may find it difficult to show that they have been resident in the UK without a paper trail.
- People who have arrived shortly before the cut-off date for eligibility. People who arrive in the weeks and months preceding the cut-off date are more likely not to have bank accounts, leases, or other sources of verification, such as contracts for services.
- People without passports or national identity documents may have difficulty demonstrating their nationality. At the time of the 2011 Census, 100,000 or 5% of EU-born residents of England and Wales reported not holding a passport.<sup>96</sup>

54. In evidence to the House of Lords EU Justice Committee, Glyn Williams, Director-General, Border Immigration and Citizenship System, Home Office, explained that the Home Office:

have set up three stakeholder groups [including] one for those who are more on the vulnerable side. Secondly, UKVI is already working with a company that is offering a digital assisted service to people applying under UKVI existing schemes. They offer guidance on the telephone and can arrange appointments at libraries or, in the case where people cannot access libraries, send a so-called tutor to do a home visit. We have been trialling that for the last six months and intend to build on it for that scheme. We have set up an email registration service for EU citizens who want to be kept informed of developments—and I think that we have more than 200,000 who are registered for that now. We have been doing a communications campaign through social media on Facebook, and so on.<sup>97</sup>

---

93 [Q1943](#)

94 [Q1950](#)

95 [Q1952](#)

96 [Migration Observatory, Report, Unsettled Status? Which EU Citizens are at Risk of Failing to Secure their Rights after Brexit?, 12 April 2018](#)

97 [Q22](#)

55. In evidence to this Committee, Guy Verhofstadt acknowledged that the Home Office is working on this and said that he had told the Home Secretary, Sajid Javid, that national contact points would be a solution:

We want a network of contact points in Britain where these people can go. A contact point does not mean there is one contact point in London and one contact point in Birmingham. That is not what we want. We want a number of contact points where people can easily go. If they cannot go because they are, for one or other physical reason, not capable to do so, the Home Office can come to the home of these people to fill in this registration—we call it a registration—for settled status.<sup>98</sup>

56. Mr Verhofstadt reiterated this possible solution in his remarks to the European Parliament on 2 July 2018. He also stated that he will urge the UK to set a deadline for registrations so that Home Office officials can respond to an application for settled status in due time. If there is no response by the deadline, the application “would be accepted”.<sup>99</sup>

### **Digital application process**

57. The Statement of Intent indicates the online application form is being designed “so that it is short, simple and user-friendly.” Applications can also be made via an app on a smartphone. All EEA passports have a chip, which allows holder to use ePassport gates. This chip can be scanned to swiftly upload information on the holder, negating the need to physically present the passport as proof of identity. The Settled Status smartphone app hopes to use this chip-checker facility to scan details from a passport and thus avoid the need to scan individual identification documents. During her statement on 21 June 2018, Caroline Nokes, said:

The digital application will be available on any computer, tablet or smartphone, but the chip-checker is currently available only on Android. [...] the Home Secretary has recently raised that matter with Apple, because of course we would like the chip-checker to work on everything.<sup>100</sup>

58. This Committee heard of the other potential pitfalls of having a digital application process. One of these is the spelling of names, as Ms Donskoy explained:

It is quite common in northern countries for the second name to be used as the first name. There are names with accents, names with hyphens. In some countries, the maiden name is used as the family name and the system says “no”. It is a classic case where the system rejects the applicant because we do not fit within the norm of having a British name where there are no accents, no this, no that. I get kicked out every time I want to go online to check in, because I have a hyphen in my name, so “computer says no”.<sup>101</sup>

98 [Q2103](#)

99 [Politico, MEPs to send UK complaint over post-Brexit plans for EU citizens, 3 July 2018](#)

100 [HC Deb, 21 June 2018, col 512](#)

101 [Q1945](#)

59. The Migration Observatory report on Settled Status said some people will struggle “to navigate an application due to difficulties accessing or using the application”. This could be because of factors such as:

- Language barriers.
- Age or disability. Includes barriers to using an online system, identifying offline sources of help, and problems associated with memory loss.
- Digital exclusion. Lack of computer literacy or online access required to navigate a primarily digital system.<sup>102</sup>

60. Caroline Nokes told us that:

Government services are digital by default. We would prefer that to be the default route and think that it provides a much quicker and seamless service.<sup>103</sup>

[...] I am very conscious that this is going to be an iterative process that we will learn throughout. I am reasonably confident that we have dealt with the challenges of different fonts, and alphabets that are not the same as our own. Of course there will be challenges. I am conscious that we have in the region of three years to resolve any technological problems that occur, to resolve anything that might come to light during the course. This is why we are working with user groups across the 27 EU member states so that we can address these challenges as they think of them.<sup>104</sup>

**61. We welcome the Immigration Minister’s recognition that some EU citizens living in the UK will face linguistic challenges in dealing with standard application forms designed to accept only English. This is a real concern where the application form may ask for names in a different format to how it is displayed in their passport, or other identity document.**

### ***Categories excluded from the Withdrawal Agreement***

62. The Statement of Intent includes details on categories of people who currently have a right of residence under EU law, but not the Free Movement Directive, and will be protected by the WA. This was a matter previously commented on by the Committee in its Fifth Report of this Session, where the WA appeared to cover the ‘Chen children’ but not the ‘Zambrano children’.<sup>105</sup> The Statement of Intent comments on the Chen carers and Ibrahim and Teixeira children or carers, to explain that these persons may be eligible to apply, and if not, provision will be made in the Immigration Rules to enable them to do so, consistent with the WA.<sup>106</sup>

---

102 Migration Observatory report

103 [Q2227](#)

104 [Q2230](#)

105 Third Report of 2017–19, The progress of the UK’s negotiations on EU withdrawal (March to May 2018)

106 Statement of Intent, Paras 6.10–6.11. A Chen carer is a primary carer of a self-sufficient EU citizen child or children in the UK; An Ibrahim and Teixeira child is a child of a former EU citizen worker and is in education in the UK, and an Ibrahim and Teixeira carer is the primary carer of such a child; and others who need a right of residence in the UK in order for a Chen or Ibrahim and Teixeira child to remain in the UK (e.g. other children of the primary carer)

63. The Statement also identified other caveats. A non-EU citizen family member of a British citizen who is lawfully resident in the UK through the ‘Surinder Singh’ route before the end of transition will be able to apply.<sup>107</sup> Zambrano carers—non-EU citizens who are the primary carer of a British citizen in the UK—will be provided for in the Immigration Rules. The Government has said it will provide further information, in due course, for people not covered by the Withdrawal Agreement, but who they intend to provide for through the Immigration Rules.<sup>108</sup>

**64. We welcome the Government’s position that it will protect carers and children who might not be covered by the Withdrawal Agreement or have acquired rights through EU case law and would otherwise be at risk of losing their ability to demonstrate their right to reside in the UK. The Home Office has said it may have to legislate to provide this protection and will provide further information in due course. We look forward to these commitments being given legal effect.**

### Cost

65. The Government’s Statement of Intent indicates that the fee for applications will be £65 for adults and £32.50 for children under 16. Applicants who have already acquired Permanent Residency will be exempt because they have already paid a similar fee.<sup>109</sup> The Secretary of State, Sajid Javid MP, has said that assistance in libraries and home visits for vulnerable people will be free of charge.<sup>110</sup> On the price of an application, Ms Donskoy explained that:

The Joint Report [of December 2017] said there should be no fee, but for some reason it has been reinstated, I think in the [Withdrawal Agreement], and has not gone away.<sup>111</sup>

66. She said “We still think this is totally unfair. [...] there is a huge cost when you have a family.” Furthermore, there were indirect costs associated with the application, such as taking time off work and travelling.<sup>112</sup> Ms Drozdowicz suggested that:

Removing the fee without any complicated waiver process [...] will hugely support people’s decision to actually go and do it.<sup>113</sup>

Mr Verhofstadt highlighted to the European Parliament on 2 July 2018 that he will insist the fee is scrapped: “We think the people who lived in Britain before the notification of the Withdrawal Agreement shouldn’t pay a fee”.<sup>114</sup> The Scottish Government has also called upon the UK Government to scrap the fee and has expressed the concern that for some low-income families and for older people, the cost may deter them from regularising their status. The Scottish Government has also said it will pay the settled status fee for any EU citizen working in the public sector in Scotland.<sup>115</sup>

107 Statement of Intent, para 6.12

108 Statement of Intent paras 6.10–6.12; [Q2255–2258](#); and Home Affairs, Oral evidence: Work of the Home Secretary, HC 434, 28 March 2018, [Q219–220](#)

109 [EU Settlement Scheme: Statement of Intent](#)

110 [Q22](#)

111 [Q1932](#)

112 [Q1932](#)

113 [Q1932](#)

114 [Politico, MEPs to send UK complaint over post-Brexit plans for EU citizens, 3 July 2018](#)

115 [Letter from Fiona Hyslop MSP, External Affairs Secretary, to Sajid Javid, Home Secretary, 15 July 2018](#); [BBC News, Sturgeon says government will pay EU ‘settled status’ fee, 8 October 2017](#);

67. The Immigration Minister told us that the Government does not intend to provide a waiver scheme,<sup>116</sup> although the fee for children who are within the care system will be waived.<sup>117</sup> She stressed that the Scheme is going to cost the Government more to administer than they will recover in fee income, because they will have to spend significant sums making sure that they have the human resources and caseworkers.<sup>118</sup> Simon Bond explained that the Government will publish estimates of these costs when they lay the rules as part of the impact assessment.<sup>119</sup>

**68. The fee for Settled Status applications has been a factor in the negotiations. The EU-UK December Joint Report said that residence documents will be issued free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents. The Minister told us that the UK and the EU have agreed to a fee being charged for each application. The cost—£65 and £32.50 for children—is the same as the cost charged by the Home Office for permanent residence applications. We welcome the reduction in cost for children and ask the Home Office to consider a comparable reduction for retired people. We welcome the assurance that the Home Office will produce an impact assessment explaining the costs of the Settled Status scheme and look forward to its publication at the earliest opportunity. We call on the Home Office to ensure that this impact assessment examines the likely effect of the fee on the take-up of the settled status scheme. It should review its policy if the impact assessment indicates that take-up would be substantially negatively impacted by the charging of a fee. The European Parliament has maintained that the application should be free; and we would support this position, but only if it were to be reciprocated to the extent that no charges would be imposed on UK citizens in the EU to regularise their status. We are concerned that persons who came to the UK in good faith, in exercise of their right of freedom of movement and with the reasonable expectation that they could continue to do so without charge, should have to pay a fee to apply for a status that is being retrospectively applied to them. If employers choose to reimburse their staff for the cost of any application for Settled Status this should not be classified as a benefit in kind.**

## Information provision

69. We heard evidence that the Home Office will need to provide information to EU citizens in the UK, to make them aware of the scheme and to persuade them to apply. The Government's Statement of Intent indicates that more information will be available shortly on when the EU Settlement Scheme will be open and how to apply. EU citizens and their family members can sign up for email updates on gov.uk.<sup>120</sup> Mr Hatton told this Committee that the Home Office is working on a set of frequently asked questions, to be published in the future.<sup>121</sup>

---

116 [Q2242](#)

117 [Q2241](#)

118 [Q2236](#)

119 [Q2238](#)

120 [EU Settlement Scheme: Statement of Intent](#)

121 [Q1928](#)

70. Ms Drozdowicz said there appeared to be some in the Eastern European community who were in denial or unaware about having to apply for Settled Status. The Eastern European Resource Centre website said:

Lately we have been spending a lot of time going around London in Eastern European shops and churches and have been explaining new Settled Status to people and hearing their concerns. We found out that many Eastern Europeans are not convinced yet that they would need to apply for some sort of documentation to be able to stay in the UK after Brexit. For example, some believe that as long as they are law abiding citizens (paying their taxes, not breaking the law), they will be able to stay here without applying for any papers. Others believe that this status will be awarded automatically. Some are frustrated that they need to apply for anything and are thinking about leaving the UK. Others are worried about friends or family that have an uncertain status at the moment (for example working cash in hand) and whether they will be able to apply for this new status.<sup>122</sup>

71. Ms Drozdowicz told the Committee:

It really worries us that some sections of people seem to choose, if you can choose that, to be in some form of immigration denial. Uncertainty has been with us for so long, it has been so deeply normalised, that people just refuse to engage, full stop. It worries us that people will not register to the scheme, not for any malevolent reason; they just do not understand why they should be doing that. The logic is: “I have been here eight years”—or 10, 12 or 15 years—“and I have been working. The Government can go and check Revenue and Customs records. I have been here legally. Everything is fine. I am not going to do anything about that”.<sup>123</sup>

72. She explained that the Home Office has said it will roll out a digital assistance scheme in libraries. However, she expressed concerns about their accessibility:

This is not the first place where people who are struggling with, for example, language or literacy barriers would go. So far, there is no solution to the problem of overcoming the barriers. If the scheme exists to support people who will face problems in accessing the scheme, the scheme itself is inaccessible.<sup>124</sup>

She also pointed out the deficiencies in other planned channels of information, and a lack of meaningful engagement with the third sector to help cascade information, advice and support, to those hard to reach groups. She doubted whether social media on its own would be sufficient, and whether the messaging had to take into account people who are not fluent in English.<sup>125</sup> She felt that face to face provision was the best means to address this in some circumstances, such as the elderly or children in residential care.<sup>126</sup>

---

122 Eastern European Resource Centre, [One year to go – Brexit](#), 28 March 2018

123 [Q1920](#)

124 [Q1930](#)

125 [Q1930](#)

126 [Q1931](#)

73. During her statement on 21 June 2018, Caroline Nokes said that:

I am very conscious that a significant part of this is about communications. We have already started our communications plan, but that will ramp up significantly over the course of the next few months. It is crucial that EU communities, wherever they live in the country, have the opportunity to know what the scheme is about and to understand it. Today, I have published an op-ed piece in a Polish newspaper. There will continue to be significant engagement with foreign newspapers.<sup>127</sup>

74. Before our Committee, she said that the best way to communicate with EU citizens in the UK was to engage with the embassies, the consulates, and our user groups. She said that 200,000 EU nationals have signed up to the Home e-mail updates on this subject, which allows the Home Office to notify them directly. She said that the Home Office is using digital media—such as Facebook adverts which can be targeted to particular community groups—and foreign-language newspapers. Regarding vulnerable groups, she said:

We are working particularly with user groups around vulnerable individuals so that they can use the assisted digital, and at different locations they will be supported through the process. Some face-to-face applications will be allowed and we are looking at ways that we can make postal routes as simple and straightforward as possible.<sup>128</sup>

[...] We are working across the piece to make it the most straightforward and seamless route to use, but of course I understand that there will be those who still will not be able to.<sup>129</sup>

75. She added that “it is incumbent upon us to work with all arms of Government” and that it is “absolutely imperative that we work with all the devolved administrations.”<sup>130</sup> This included raising awareness among local government, although she was “reluctant to place burdens on local authorities”.<sup>131</sup> She also thought that Government would be “well advised to increase communications and work with employers more intensively” if Government thought there would be a “significant shortfall” in the numbers registering.<sup>132</sup> When asked if the Home Office would publish Performance Indicators on the number of applications received, the speed of response, and approval rate, the Minister said

I do think that we have to do that. [...] I do think that would be useful both for the scrutiny of the scheme by individual Members of Parliament and indeed for the public.<sup>133</sup>

---

127 [HC Deb 21 June 2018, col 515 EU Settlement Scheme](#)

128 [Q2224](#)

129 [Q2226](#)

130 [Qq2245–46](#)

131 [Q2286](#)

132 [Q2285](#)

133 [Q2303](#)

76. The UK Government has said it wants EU citizens in the UK to stay. The provision of information relating to the new scheme will be of paramount importance in ensuring its success. There are two clear audiences that need to know why it is necessary and how it will work: EU citizens currently resident in the UK and those who may have reason to ask a EU citizen to demonstrate their immigration status. The 3 million European citizens are spread throughout the UK, including many remote and rural locations. They may not all be connected to the internet or have a good mobile telephone signal. Many do not currently understand that applying will be necessary to regularise their status in the UK. It would be regrettable if there was a low take-up for the scheme due to a lack of awareness.

77. The Home Office will not be the only body delivering any information campaign. We welcome the engagement that the Home Office has started with Embassies, consulates, user groups, and local authorities. It will be very important to disseminate information through representatives of the various European communities established in the UK so that the message can be amplified to the people who need to apply. The Government should consider how it might provide additional resources to such community organisations that will be doing valuable work on the Government's behalf.

78. It is clear that the Home Office is moving towards greater reliance on digital methods to carry out its work. It has invited EU citizens to sign up to email alerts to keep abreast of the Settled Status scheme. Bearing in mind the scale and diversity of the settled EU population in the UK, it is important that the Home Office utilise a variety of media to make sure they get their message across. For example, given that many EU citizens travel back and forth, and will do so during the transition period, a cost-effective measure would be to publicise the scheme via transport operators and ticketing agencies.

## Those who do not obtain Settled Status

### *Criminal record checks*

79. The Statement of Intent indicates that criminal and security checks will be carried out on all applications for status under the scheme. It states that criminal convictions before the end of transition period, by a person protected by the Withdrawal Agreement, will be assessed according to the current EU tests for deportation, as set out in the EEA Regulations. After transition, their conduct and criminal convictions relating to it, will be considered against UK deportation thresholds.<sup>134</sup> Mr Doran, Deputy Director, EU Exit Immigration Strategy at the Home Office, told us that:

The existing EU public policy test requires us to look at each individual set of circumstances. There is no absolute threshold. It is about a genuine, present and sufficiently serious threat to the UK. In general that is a serious offence; one serious offence of the type the Minister alluded to,<sup>135</sup> or a number of less serious crimes. The caseworker also needs to take into account things like how long ago the offence was, and the conduct of the person since the

134 [EU Settlement Scheme: Statement of Intent](#)

135 The Immigration Minister said that "serious criminality" would be the current benchmark, "so sentences of more than 12 months or three lesser convictions" ([Q2297](#))

time of that offence or conviction. The public policy test is not black and white. What we are doing under the Withdrawal Agreement is assessing any criminal convictions before the end of the implementation period under the EU public policy test and any criminal convictions committed after that point, under the UK test, which is more black and white, and that is very clear; if you have had a 12-month sentence, you will be considered for deportation.<sup>136</sup>

Caroline Nokes told us that the Withdrawal Agreement will allow the Government “to ask other EU countries about foreign criminality”.<sup>137</sup>

80. We heard evidence concerning future denial of settled status on the basis of criminality. Barbara Drozdowicz said that there was a lack of understanding of what the test for deportation would be—she gave the example of someone who had asked whether their conviction for shoplifting in France in 1973 would count against their application—and said it had the potential to deter people from engaging with the scheme: “They would rather do nothing and just go underground”. She called for further guidance “to help people understand what it is that disqualifies them and potentially puts them at risk of being deported” because at the moment, “I will be honest: it is not at all clear to anyone.”<sup>138</sup> Mr Hatton pointed out that:

allegedly about 20,000 EU citizens a year have a conviction that could make them fail the settled status application. The question is what happens if you fail. Are you going to get a deportation order? What is going to happen?<sup>139</sup>

**81. There needs to be clear guidance on what the threshold is for not being awarded Settled Status on the grounds of criminality. Such guidance for applicants and Home Office caseworkers will help ensure fair and consistent application of the law. The Government has said it wants all EU citizens in the UK to apply for the Settled Status. We do not want large numbers of people to be deterred because they fear a minor or old conviction would disqualify them before they have even applied. But it is right that the Government should know about the serious criminal convictions of someone applying for settled status in order to decide whether it should be refused. Importantly, clear guidance will encourage EU citizens in the UK to feel they can apply and be treated fairly. In turn, this should also reduce the potential number of appeals.**

### **Data protection exemption**

82. For those who denied settled status, there is also a related issue of access to data. On 25 May 2018, Parliament passed the Data Protection Act 2018, implementing the General Data Protection Regulation (GDPR). It states that GDPR provisions will not apply “to personal data processed for any of the following purposes: the maintenance of effective immigration control or the investigation or detection of activities that would undermine the maintenance of effective immigration control”.<sup>140</sup>

136 [Q2300](#)

137 [Q2306](#)

138 [Q1934](#)

139 [Q1933](#)

140 [Legislation.gov.uk](https://legislation.gov.uk), [Data Protection Act 2018](#)

83. the3million argues that this exemption will make EU citizens and others “second-class citizens” without full access to Home Office files. They argue that the general nature of the exemption could prevent people from accessing data from all public organisations caught up in Home Office decisions, including HMRC, the police and private contractors such as G4S. the3million argues that this means that should an application for Settled Status be rejected, it would be more difficult to appeal successfully, without access to such data. Mr Hatton explained to this Committee that the3million are launching a legal challenge to the provision. He highlighted the lack of clarity concerning use of the exemption:

We understand that the exemption will be used case by case, so it is not clear how [the Home Office] would apply the exemption. Because the exemption exists, it worries people that they will not have full access and it will be used against their own case to cover up mistakes if there are mistakes.<sup>141</sup>

84. In May 2018, the Secretary of State, Sajid Javid, wrote a letter to Guy Verhofstadt addressing these concerns:

I understand there has been concern about the proposed immigration restriction in the Data Protection Bill but would like to reassure you that it will only be used where there is a likelihood of prejudice to effective immigration control, for example in relation to on-going or planned enforcement activity. EU citizens will, as now, be able to request data via a Subject Access Request to the Home Office, and if necessary, to rectify the data held about them. However, we do not expect this to happen frequently owing to the simple design of the Scheme.<sup>142</sup>

**85. There is understandable concern that appellants might not have access to all the data that the Home Office has used to form a decision on their application. This may lead to individual circumstances where EU citizens are denied Settled Status and the applicant is unable to challenge a refusal without access to the evidence which led to the decision. We therefore call upon the UK Government to waive the data protection exemption to EU citizens and give them full access to their Home Office files in cases where their application is rejected.**

## Post 2020

### *Timetable and deadlines*

86. Caroline Nokes told us that the system will be tested at scale in the Autumn, and that it will be launched towards the end of the year in phases and fully open by March 2019.<sup>143</sup> The Government's Statement of Intent explains how the timetable for applications runs alongside the dates for the UK's withdrawal from the EU, and the transition period:

There will be plenty of time—until 30 June 2021, six months after the implementation period ends on 31 December 2020—for all those resident here by 31 December 2020 to apply for status under the EU Settlement

141 [Q1949](#) See also [written evidence from the3million NEG0023](#)

142 [Letter from Sajid Javid, Home Secretary to Guy Verhofstadt MEP](#), 16 May 2018

143 [Q2220](#)

Scheme, and they will remain protected by the Withdrawal Agreement pending the outcome of such an application made by 30 June 2021. Close family members joining an EU citizen here after 31 December 2020 will have three months from their arrival in which to make an application for status under the scheme (or until 30 June 2021 if they arrive before 1 April 2021).<sup>144</sup>

It also states that, where someone misses the deadline for their application for a good reason, they will be given a reasonable further period in which to apply.<sup>145</sup>

87. The Home Secretary, Rt Hon Sajid Javid MP, has said that the Home Office wanted to be “very sensible and open-minded” about EU citizens coming forward after the scheme has closed, for those with a “good, legitimate reason” for missing the six months grace period after the end of transition.<sup>146</sup> The Statement of Intent also clarifies that:

Until the end of the implementation period, applicants refused status under the scheme will still be able to assert their free movement rights and will retain their statutory right of appeal against any restriction of those rights under the EEA Regulations.<sup>147</sup>

The Immigration Minister, Caroline Nokes MP, told us to us that “there has to be a proportionate response to those who may have missed the deadline through no fault of their own.”<sup>148</sup>

88. In our Second Report of this Session, we warned that if: “the processing of applications continues after the two year implementation period then there will be a proportion of EU citizens in the UK unable to demonstrate their settled status and therefore their right to live and work in the UK.”<sup>149</sup>

89. At Chequers, on 6 July the UK Government agreed to publish a White Paper setting out its vision for the Future UK-EU relationship. We asked the Immigration Minister about the ability of EU citizens to come to the UK now, and the future labour mobility proposal agreed at Chequers and subsequently published in the White Paper.<sup>150</sup> She said she hoped there would be:

an agreement with the EU so that EU nationals can come here on visits and that we will be able to go the EU 27 without requiring a visa. [...] we will have to make provision in the future Immigration Bill for people from the EU to come here for business visits or to work should they wish to.<sup>151</sup>

---

144 [EU Settlement Scheme: Statement of Intent, 21 June 2018](#)

145 [EU Settlement Scheme: Statement of Intent, 21 June 2018](#), para 1.19

146 [House of Lords EU Justice Committee Thursday 21 June 2018 Q20](#)

147 [EU Settlement Scheme: Statement of Intent, 21 June 2018](#)

148 [Q2231](#)

149 [Second Report of Session 2017–19, 1 December 2017, HC 372](#)

150 [The Future Relationship between the United Kingdom and the European Union, Cm 9593, Section 1.4, Framework for Mobility](#)

151 [Q2259](#)

90. When asked to give an example of a labour mobility framework that we could look to, Caroline Nokes referred to the youth mobility schemes that the UK has with eight different countries, including Australia, New Zealand and Canada.<sup>152</sup> She further pointed to the Government White paper published on 12 July and the forthcoming Immigration White Paper in the Autumn, as providing more detail.<sup>153</sup> The White Paper section on Mobility Framework said that the UK's future economic partnership should therefore provide reciprocal arrangements “consistent with the ending of free movement”, that:

- support businesses to provide services and to move their talented people;
- allow citizens to travel freely, without a visa, for tourism and temporary business activity;
- facilitate mobility for students and young people, enabling them to continue to benefit from world leading universities and the cultural experiences the UK and the EU have to offer;
- are as streamlined as possible to ensure smooth passage for legitimate travel while strengthening the security of the UK's borders; and
- provide for other defined mobility provisions, including arrangements to ensure that UK citizens living in the EU, in future, continue to benefit from their pension entitlements and associated healthcare.

It also states that “the principle of non-discrimination between existing Member States should apply to all of the provisions agreed as part of the framework for mobility.”<sup>154</sup>

**91. A test version of the online site is expected to be available in Autumn 2018 and open to all by March 2019. We note the difficulty in anticipating the rate at which people might apply once the online Settled Status scheme is operational. Similarly, it is difficult to anticipate the number of EU citizens who might not have applied by the end of the transition period. For those who arrive before 31 December 2020—the end of the transition period—but do not submit an application, the Government has offered a six-month grace period. In addition, the Government has said it will take a ‘proportionate response’ to those who apply after the deadline through ‘no fault of their own’.**

**92. However, the scale of the task means that if even a small proportion of those eligible to apply do not do so, or are refused, there is a risk of a large number of EU citizens in the UK by July 2021 not having certainty as to their legal status. The UK Government needs to set out what it would do with thousands of EU migrants unable to demonstrate their legal status.**

---

152 Q2260 A [Tier 5 \(Youth Mobility Scheme\) visa](#) is available for people aged 18–30, from the specified countries, who wish to live and work in the UK for up to 2 years. To apply, the applicant has to pay £244 and the NHS surcharge (£150 per year), and have £1,890 in savings. If successful, the applicant can come and go, as long as the visa is valid.

153 Q2262 and Q2264

154 [The Future Relationship between the UK and the EU, Cm 9593, 12 July 2018, paras 76–78](#)

93. While we welcome the spirit of the Government's approach to those who apply after the end of the transition period, it is not certain what will be required of an EU citizen entering the UK after transition. The Government's White Paper published on 12 July says that free movement will end when the UK leaves the EU and describes an aspiration to a future labour mobility framework. We look forward to taking evidence on this fundamentally important aspect of the future UK-EU relationship as the negotiations progress.

### *Independent oversight and appeals*

94. The enforcement arrangements for citizens' rights have yet to be clarified in detail. It has been agreed, under Article 151 of the draft WA, that preliminary reference procedures to the Court of Justice of the EU in respect of citizens' rights will continue for eight years. Furthermore, Article 152 provides that citizens' rights are to be monitored in the UK by a new Independent Monitoring Authority (IMA). The Joint Report agreed by the UK and the EU in December 2017, said:

The implementation and application of the citizens' rights Part will be monitored in the Union by the Commission acting in conformity with the Union Treaties. In the UK, this role will be fulfilled by an independent national authority; its scope and functions, including its role in acting on citizens' complaints, will be discussed between the parties in the next phase of the negotiations and reflected in the Withdrawal Agreement. There should be regular exchange of information between the UK Government and the Commission.<sup>155</sup>

95. A further issue brought to the attention of the Committee was the legal basis for the Settlement Scheme, as Mr Hatton explained:

Having a scheme that starts beforehand will not be an application of the withdrawal agreement. It will be done through secondary legislation without any statutory right of appeal. There are a lot of question marks legally on starting the scheme before the withdrawal agreement starts.<sup>156</sup>

96. the3million have published a list of 150 questions to the Home Office about settled status, which includes several relating to the working of the IMA.<sup>157</sup> In May 2018, in its response to the Committee's third report, the Government said, it would "publish further details of how the IMA will carry out its work and arrangements for appointments in due course."<sup>158</sup> The Government's Statement of Intent indicates that, ahead of the IMA being setup by primary legislation, the implementation of the scheme will be monitored by the Independent Chief Inspector for Borders and Immigration (ICIBI).<sup>159</sup>

155 [Joint Report on progress during phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the EU, 8 December 2017, para 40](#)

156 [Q1933](#)

157 [the3million, Questions](#)

158 [The progress of the UK's negotiations on EU withdrawal \(December 2017 to March 2018\): Government Response to the Committee's Third Report](#)

159 [EU Settlement Scheme: Statement of Intent](#) The ICIBI inspects all elements of the UK borders and immigration system, and is independent of the Home Office, providing impartial reports for the Home Secretary which are laid in Parliament.

97. Guy Verhofstadt has highlighted his concerns around the UK Government's current proposals do not include details of an "independent authority to scrutinise the whole process".<sup>160</sup> And in a letter of 3 July 2018, to the Home Secretary, Guy Verhoftsadt outlined the concerns of the European Parliament Brexit Steering Group to the Settlement Scheme, the first of which related to the IMA and the temporary role for the ICIBI. He wrote:

We assume that refers to the period between the Scheme's launch in late 2018 and the entry into force of the Withdrawal Agreement expected on 30 March 2019. It is crucial that as of the latter date, the IMA is up and running. Otherwise, it would potentially constitute a breach of Article 152, as the ICIBI would not have the powers and responsibilities outlined in the draft Withdrawal Agreement, which go beyond carrying out inspections. In fact they include conducting inquiries, receiving complaints and, crucially, bringing, on the basis of a complaint, legal actions before a UK court or tribunal.<sup>161</sup>

98. The Immigration Minister, Caroline Nokes MP, told us that the Government will be setting out details of how the IMA will operate "in due course."<sup>162</sup> She added that:

The Withdrawal Agreement says there will be an independent monitoring authority to monitor the Government's implementation. That requires primary legislation to set up, so obviously we will have to do that. In the meantime, the EU Commission will continue to monitor both our implementation but of course the implementation of the EU 27 and how they are treating British citizens who are living in EU member states.<sup>163</sup>

She stressed that the Government is "content" that the ICIBI can fulfil the role in the meantime before the IMA is setup, but that they "are conscious that that is suboptimal".<sup>164</sup> She concluded that she is "very happy to provide an update on what work is going on, and can do that in writing."<sup>165</sup>

99. The Withdrawal Agreement is to be incorporated in UK law, meaning that applicants can rely on it directly in front of UK courts to check that the Government is correctly implementing their rights. The Independent Monitoring Authority cannot directly refer matters but will take account of CJEU law for eight years from March 2019. UK courts may refer issues to CJEU.

**100. The Immigration Minister told us that she was confident that the Independent Chief Inspector of Borders and Immigration (ICIBI) will be able to carry out the role of safeguarding the rights and EU citizens in the UK, until the Independent Monitoring Authority (IMA) is ready. We are not as confident that the ICIBI is entirely suitable for the role, and fulfils the requirements set out in Article 152 of the draft Withdrawal Agreement. Part of the reason for the delay is that the IMA will require primary legislation to pass through Parliament before it can be operational. However, this should not stop the UK Government from providing detail in relation to the IMA's**

160 [Politico, MEPs to send UK complaint over post-Brexit plans for EU citizens, 3 July 2018](#); See also the [Draft Statement of the Brexit Steering Group 12 July 2018](#)

161 [Verhofstadt letter to the Home Secretary, 3 July 2018](#)

162 [Q2268](#)

163 [Q2270](#)

164 [Q2271](#)

165 [Q2276](#)

**powers, procedures and resources. This is vitally important to instil confidence in the process, particularly given concerns expressed about the ability of the Home Office to manage such a task effectively. We look forward to receiving an update in writing on the work being carried out.**

## Clarity on the situation for Irish in the UK

101. Irish citizens are the largest group of UK residents with nationality of a state other than the UK. More than a million UK residents hold Irish citizenship and at least 6 million may be entitled to it. Most of these people also hold British citizenship by birth in the UK, or by descent from a British citizen parent. Many Irish citizens resident in the UK do not hold British citizenship. 389,000 UK residents are Irish citizens by birth in the Republic of Ireland. Only a minority are likely to also be British citizens by descent (i.e. through a British born parent or grand-parent), and small numbers hold British citizenship by naturalisation. Concerns have been expressed that the current legal framework—comprised of the Common Travel Area and the Ireland Act 1949—is insufficient protection to maintain the status quo for Irish nationals in the UK as most of their rights derive from EU law.<sup>166</sup>

102. The Government's Statement of Intent reiterates that Irish citizens enjoy a right of residence in the UK that is not reliant on the UK's membership of the EU. They will not be required to apply for status under the EU Settlement Scheme (but may do so if they wish), and their eligible family members (who are not Irish or British) will be able to obtain status under the scheme without the Irish citizen doing so.<sup>167</sup>

103. We took evidence from representatives from the Irish in Britain.<sup>168</sup> Catherine Hennessy, Trustee, Irish in Britain said that the Windrush scandal had affected the community's confidence in reliance on the Common Travel Area to some degree, particularly among older people who are worried they may have to demonstrate their rights to benefits, healthcare and housing. She specifically referred to documentation:

Many fear they will not have the documentation required, given that their early employment may have been of a casual nature and may have taken place several years ago, because they are now retired.<sup>169</sup>

Dr Mary Tilki, former Chair of the Irish in Britain, said there had been “anecdotal evidence of people having problems already with the habitual residency test when they go for benefits” and suggested that separate information should be provided to explain that Irish citizens have different rights and entitlements from some other EU citizens.<sup>170</sup>

104. The Immigration Minister, Caroline Nokes MP, clarified to us that:

The reality is that we take very seriously the rights under the common travel area. We could not have obliged [Irish citizens to apply], but [that if they] wish to, they could.<sup>171</sup>

166 The Traveller Movement [Simon Cox], [Brexiteer and Irish citizens in the UK How to safeguard the rights of Irish citizens in an uncertain future](#), December 2017, para 98

167 [EU Settlement Scheme: Statement of Intent](#)

168 [Irish in Britain](#)

169 [Q1909](#)

170 [Q1912](#)

171 [Q2215](#)

105. She did point out however, that:

There is one element, which is when it comes to EU citizens with settled status and their right to bring in non-EU spouses or people with whom dependence pre-exists. [Irish citizens] might choose to do so to facilitate bringing in a non-EU spouse. I say “spouse” for easy reference, but that could be a durable relationship that pre-existed.<sup>172</sup>

Mr Doran suggested it would be “easier” both for the Home Office and for Irish citizens if Irish citizens exercising this right were registered under the scheme.<sup>173</sup>

**106. Irish citizens in the UK have a unique set of rights. As they have the option of applying for Settled Status and may find it easier to exercise some of their rights if they have Settled Status, we recommend the Government sets out detailed guidance to clarify the situation and avoid uncertainty. Given their special status we do not think any Irish citizen should be charged a fee to apply for settled status.**

---

172 [Q2216](#)

173 [Q2219](#)

## 3 Ring fencing citizens' rights in the event of no deal

---

### The UK in the EU

107. The negotiators for the UK and the EU have said that citizens' rights are a priority. However, it is not clear what would happen to citizens' rights in the event of no deal. Kalba Meadows said the uncertainty was continuing to create "stress and uncertainty" such that "many people stick their heads in the sand because they do not know how else to act."<sup>174</sup> Jane Golding told us that the EU-27 authorities "are in preparedness mode, but there is nothing clear yet that they can implement" and that while the draft WA was not finalised, "there is no certainty for the two groups because there is no legally binding agreement."<sup>175</sup>

108. The British in Europe were told by the German Government's Brexit lead negotiator that Germany feels a "responsibility for British citizens in Germany as much as [they] do for German citizens in the UK".<sup>176</sup> Fiona Godfrey said that during their meetings in Brussels, the question of No Deal was raised "by all the people we met in the various institutions" and that since January, "there is a lot more concern in Brussels about the prospect of a no deal."<sup>177</sup>

109. If there is no agreement on ongoing free movement after the transition period ends, then the rights of UK citizens currently resident in the EU may be determined by EU rules on third country nationals (rules that apply to nationals of non-EU member states). Jane Golding, British in Europe, said there are different pieces of legislation that apply to third country nationals:

The conditions are far more stringent and in no way compare with being an EU citizen, and there is no right of free movement. There is a limited form of mobility. Then there are very big holes in this third-country national regime as far as self-employed people are concerned. There are a number of pieces of legislation that cover employees, but far fewer for self-employed people who are providing cross-border services. There are very big holes there.<sup>178</sup>

### The EU in the UK

110. The Statement of Intent explains that the Government is committed to incorporating the Withdrawal Agreement fully into UK law and making sure that citizens can rely directly on the citizens' rights part of the agreement.<sup>179</sup> However, Mr Hatton, of the 3million, described "No Deal" as "the worst-case scenario for EU citizens" and expressed his concern that there does not currently appear to be a form of ring-fencing for EU citizens' rights if the UK leaves the EU without a Withdrawal Agreement. He said there

---

174 Q1956

175 Q1956

176 Q1996

177 Q1996

178 Q1978

179 [EU Settlement Scheme: Statement of Intent](#)

was a risk that there would be “3 million illegal immigrants in the country as a result, because we will not have a status.”<sup>180</sup> Ms Donskoy explained that people were “extremely worried for themselves. They are extremely worried for their families” because

if there is no deal all EU citizens will automatically fall back on to an immigration system that was never designed for them in the first place.<sup>181</sup>

111. The Home Secretary, Sajid Javid MP, has said that the agreement on citizens’ rights will be “honoured, even if the UK is unable to reach an acceptable deal with the EU 27” and that “EU citizens living lawfully in the UK will be able to stay. No matter what happens”. Importantly, he said

Our focus has been, understandably, that we will get a deal—I am confident about that—and we are working on that basis.<sup>182</sup>

The Immigration Minister, Caroline Nokes MP, told this Committee that:

We do not anticipate that there will be no deal, and in the event of no deal I personally hope that we will uphold everything that we have said and make sure that we deliver on our commitment to EU citizens. [...] Once we have opened the scheme and someone has achieved settled status, it is the equivalent of indefinite leave to remain. We would not be able to take that away from them. If they have it they will be able to keep it.<sup>183</sup>

**112. The Withdrawal Agreement is not finalised. While we welcome the positive statements from the Ministers that they would honour their commitments to the EU in the UK in the event of no deal, more could be done to provide reassurances as to how this would be put into legal effect. The Withdrawal Agreement contains protections for EU citizens in the UK and for UK citizens in the EU. However, in the event of No Deal, there would be uncertainty around establishing the right to reside and work and the right to return after a period of absence. There are also protections built into the Withdrawal Agreement which would be lost, such as the right to refer cases to the CJEU for eight years.**

**113. We welcome the Home Secretary’s clear commitment that EU citizens living lawfully in the UK will be able to stay in the event of No Deal, and call on Member States to make similar public commitments to assure all UK citizens living in their territory that their rights will also be safeguarded in such circumstances. We note that the European Parliament has pursued this issue and we trust that they will continue to do so.**

---

180 [Q1953](#)

181 [Q1920](#)

182 [Q23](#)

183 [Qq2221–2223](#). See also [HC Deb, 21 June 2018, Col 515 \[EU Settlement Scheme\]](#)

## Formal minutes

---

**Wednesday 18 July 2018**

Members present:

Hilary Benn, in the Chair

Joanna Cherry	Jeremy Lefroy
Sir Christopher Chope	Mr Pat McFadden
Stephen Crabb	Craig Mackinlay
Mr Jonathan Djanogly	Seema Malhotra
Richard Graham	Mr Jacob Rees-Mogg
Peter Grant	Emma Reynolds
Wera Hobhouse	Stephen Timms
Andrea Jenkyns	Hywel Williams
Stephen Kinnock	Sammy Wilson

Draft Report (*The progress of the UK's negotiations on EU withdrawal: the rights of UK and EU citizens*), proposed by the Chair, brought up and read.

*Ordered*, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 26 agreed to.

Paragraph 27 read.

Motion made, and Question put, That paragraph 27 stand part of the Report.

The Committee divided.

Ayes, 10	Noes, 5
Joanna Cherry	Sir Christopher Chope
Stephen Crabb	Andrea Jenkyns
Mr Jonathan Djanogly	Craig Mackinlay
Peter Grant	Mr Jacob Rees-Mogg
Jeremy Lefroy	Sammy Wilson
Mr Pat McFadden	
Seema Malhotra	
Emma Reynolds	
Stephen Timms	
Hywel Williams	

Paragraph accordingly agreed to.

Paragraphs 28 to 105 agreed to.

Paragraph 106 read.

Amendment proposed, at the end, to insert “Given their special status, we do not think any Irish citizen should be charged a fee to apply for settled status.”—(*Joanna Cherry*)

The Committee divided.

Ayes, 8	Noes, 8
Joanna Cherry	Sir Christopher Chope
Peter Grant	Stephen Crabb
Stephen Kinnock	Mr Jonathan Djanogly
Mr Pat McFadden	Andrea Jenkyns
Seema Malhotra	Jeremy Lefroy
Emma Reynolds	Craig Mackinlay
Stephen Timms	Mr Jacob Rees-Mogg
Hywel Williams	Sammy Wilson

Whereupon the Chair declared himself with the Ayes

Question accordingly agreed to.

Paragraph, as amended, agreed to.

Paragraphs 107 to 113 agreed to.

Question put, That the Report be the Eighth Report of the Committee to the House.

The Committee divided.

Ayes, 11	Noes, 5
Joanna Cherry	Sir Christopher Chope
Stephen Crabb	Andrea Jenkyns
Mr Jonathan Djanogly	Craig Mackinlay
Peter Grant	Mr Jacob Rees-Mogg
Stephen Kinnock	Sammy Wilson
Jeremy Lefroy	
Mr Pat McFadden	
Seema Malhotra	
Emma Reynolds	
Stephen Timms	
Hywel Williams	

Question accordingly agreed to.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134)

[Adjourned till Tuesday 24 July at 9.30am

## Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 25 October 2017

Question number

**Rt Hon David Davis MP**, Secretary of State, Department for Exiting the European Union

[Q1–153](#)

### Wednesday 29 November 2017

**Peter Hardwick**, Head of Exports, Agriculture and Horticulture Development Board; **James Hookham**, Deputy Chief Executive, Freight Transport Association; **Sian Thomas**, Communications Manager, Fresh Produce Consortium; **Duncan Brock**, CIPS Group Director, Chartered Institute of Procurement and Supply

[Q154–188](#)

**Jon Thompson**, Chief Executive and Permanent Secretary, HM Revenue and Customs; **John Bourne**, Policy Director of Animal and Plant Health, Department for Environment, Food and Rural Affairs; **Richard Everitt**, Chairman, Port of Dover; **Richard Ballantyne**, Chief Executive, British Ports Association

[Q189–251](#)

### Wednesday 7 December 2017

**Simon York**, Director, HMRC Fraud Investigation Service; **Mike O'Grady**, Deputy Head, Organised Crime Operations North, HMRC Fraud Investigation Service; **Deputy Chief Constable Drew Harris**, PSNI; and **Assistant Chief Constable Stephen Martin**, Head of Crime Operations, PSNI

[Q252–301](#)

### Wednesday 13 December 2017

**Professor Alexander Türk**, Professor of Law, King's College London; **John Cassels**, Partner, Competition, Regulatory and Trade Law, Fieldfisher LLP; and **Dr Scott Steedman**, Director of Standards, BSI and Vice President (policy), International Standards Organisation

[Q302–324](#)

**Katherine Bennett**, Senior Vice President, Airbus UK; **Rod Ainsworth**, Director of Regulatory and Legal Strategy, Food Standards Agency; **Angela Hepworth**, Director of Corporate Policy and Regulation, EDF UK; and **Dr Ian Hudson**, Chief Executive, Medicines and Healthcare Products Regulatory Agency

[Q325–375](#)

### Wednesday 20 December 2017

**Professor Michael Dougan**, Professor of European Law and Jean Monnet Chair in EU Law, University of Liverpool; **Professor Anand Menon**, Director, UK in a Changing Europe; **Stephen Booth**, Director of Policy and Research, Open Europe

[Q376–454](#)

### Wednesday 10 January 2018

**Professor Richard Whitman**, Head of School, Professor Politics and International Relations, University of Kent; **Fredrik Erixon**, Director, European Centre for International Political Economy; **Dr Stephen Woolcock**, Associate Professor in International Relations, London School of Economics

[Q455–545](#)

### Wednesday 17 January 2018

**Christophe Bondy**, Public International Lawyer at Cooley (UK) LLP and former senior counsel to Canada on the CETA negotiations; **Dr Lorand Bartels**, University of Cambridge and Senior Counsel, Linklaters; **William Swords**, President, UK-Canada Chamber of Commerce

[Q546–633](#)

### Wednesday 18 January 2018

**Professor Greg Hannon**, Director, Cancer Research UK Cambridge Institute; **Professor Eilís Ferran**, Pro-Vice Chancellor for Institutional International Relations, Cambridge University; **Dr Andy Williams**, Vice President Cambridge Strategy & Operations, AstraZeneca; and **Michael Lawrence**, Business Development Director, Deimos Space UK

[Q634–690](#)

### Wednesday 24 January 2018

**Rt Hon David Davis MP**, Secretary of State, Department for Exiting the European Union

[Q691–835](#)

### Wednesday 31 January 2018

**Dmytro Tupchiienko**, Data Protection Lawyer, EY, London; **Michael Emerson**, Associate Senior Research Fellow, Centre for European Policy Studies, Brussels; **Dr Tamara Kovziridze**, Co-founder, Reformatics, Tbilisi

[Q836–905](#)

### Wednesday 6 February 2018

**John Springford**, Deputy Director, Centre for European Reform; **Professor Clive Church**, Emeritus Professor of European Studies, University of Kent; and **Professor René Schwok**, University of Geneva

[Q906–964](#)

### Wednesday 7 February 2018

**Professor George Yarrow**, Chair of the Regulatory Policy Institute, Emeritus Fellow, Hertford College, Oxford, and visiting professor; **Ulf Sverdrup**, Director, Norwegian Institute of International Affairs; and **Professor Alla Pozdnakova**, Law Faculty, University of Oslo

[Q965–1022](#)

**Professor Carl Baudenbacher**, Judge of the EFTA Court

[Q1023–1048](#)

**Wednesday 21 February 2018**

**Emanuel Adam**, Director of Policy and Trade, BritishAmerican Business; **Dr Peter Holmes**, Reader in Economics, University of Sussex; **Dr Pinar Artiran**, Assistant Professor, Bilgi University, Istanbul; **Sam Lowe**, Research Fellow, Centre for European Reform

[Q1049–1100](#)**Wednesday 27 February 2018**

**Pascal Lamy**, former Director-General, World Trade Organization

[Q1101–1162](#)**Tuesday 20 March 2018**

**Dr Lars Karlsson**, President of KGH Border Services, former Director of World Customs Organisation, Deputy Director General of Swedish Customs

[Q1163–1197](#)**Wednesday 21 March 2018**

**David Campbell-Bannerman MEP**

[Q1198–1240](#)

**Jessica Gladstone**, Partner, Clifford Chance LLP; **David Henig**, UK Trade Policy Specialist

[Q1241–1284](#)**Thursday 22 March 2018**

**Iona Crawford**, Associate, Freshfields Bruckhaus Deringer LLP; **Sally Jones**, Director for International Trade Policy, Deloitte; **Mike Regnier**, Chief Executive, Yorkshire Building Society; and **Glynn Robinson**, Managing Director, BJSS

[Q1285–1310](#)**Thursday 19 April 2018**

**Andrew Bailey**, Chief Executive, Financial Conduct Authority, and **Sam Woods**, Deputy Governor Prudential Regulation, Bank of England

[Q1311–1339](#)

**Huw Evans**, Director General, Association of British Insurers, **Chris Cummings**, Chief Executive, the Investment Association, **Stephen Jones**, CEO of UK Finance, and **Nikhil Rathi**, CEO of London Stock Exchange Plc and Director of International Development

[Q1340–1377](#)**Thursday 25 April 2018**

**Rt Hon David Davis MP**, Secretary of State, Department for Exiting the European Union

[Q1378–1488](#)

### Wednesday 2 May 2018

**Jill Barrett**, Visiting Reader, Queen Mary University Law School; **Sir Jonathan Faull**, former Director General, European Commission; **Agata Gostynska-Jakubowska**, Senior Research Fellow, Centre for European Reform; **Lord Lisvane**, former Clerk, House of Commons

[Q1489–1561](#)

### Wednesday 9 May 2018

**Giles Derrington**, Head of Policy: Brexit, International and Economics, techUK; **Elizabeth Denham**, Information Commissioner; **Stephen Hurley**, Head of Brexit Planning and Policy, British Telecom; **James Mullock**, Partner, Bird & Bird

[Q1562–1633](#)

**Dr Bleddyn Bowen**, University of Leicester; **Colin Paynter**, Managing Director, Airbus Defence and Space UK; **Patrick Norris**, Secretary of the European Affairs Group, UK Space

[Q1634–1692](#)

### Wednesday 16 May 2018

**Dr Sarah Main**, Executive Director, Campaign for Science and Engineering; **Dr Beth Thompson MBE**, Head of Policy (UK and EU), Wellcome Trust; **Professor Richard Brook OBE**, President, Association for Innovation, Research and Technology Organisations; **Professor Michael Arthur**, Chair, EU Advisory Group, Russell Group

[Q1693–1758](#)

### Wednesday 23 May 2018

**Suella Braverman MP**, Parliamentary Under-Secretary of State, Department for Exiting the European Union, and **Mr Robin Walker MP**, Parliamentary Under-Secretary of State, Department for Exiting the European Union

[Q1759–1908](#)

### Wednesday 6 June 2018

**Nicholas Hatton**, Co-Chair, the3million; **Anne-Laure Donskoy**, Co-Chair, the3million; **Barbara Drozdowicz**, Chief Executive Officer, East European Resource Centre; **Dr Mary Tilki**, Member and former Chair, Irish in Britain; **Catherine Hennessy**, Trustee, Irish in Britain

[Q1909–1954](#)

**Fiona Godfrey**, Chair, British Immigrants Living in Luxembourg, and Deputy Chair, British in Europe; **Jane Golding**, Co-Chair, British in Germany, and Chair, British in Europe; **Michael Harris**, Chair, EuroCitizens, Spain; **Kalba Meadows**, Founder, Remain in France Together

[Q1955–1996](#)

### Wednesday 20 June 2018

**Guy Verhofstadt MEP**, Brexit Co-ordinator and Chair of the Brexit Steering Group, European Parliament

[Q1997–2141](#)

### Wednesday 11 July 2018 AM

**Allie Renison**, Head of Europe and Trade Policy, Institute of Directors;  
**Henry Newman**, Director, Open Europe; and **Michael Dougan**, Professor of  
European Law and Jean Monnet Chair in EU Law, University of Liverpool

[Q2142–2200](#)

### Wednesday 11 July 2018 PM

**Rt Hon Caroline Nokes MP**, Minister of State for Immigration; **Simon Bond**,  
Strategy Director, Board of Immigration and Citizen System and Europe  
Director; and **Mark Doran**, Deputy Director, EU Exit Immigration Strategy

[Q2201–2309](#)

## Published written evidence

---

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

NEG numbers are generated by the evidence processing system and so may not be complete.

- 1 Association of British Insurers ([NEG0007](#))
- 2 British Retail Consortium ([NEG0010](#))
- 3 British in Europe ([NEG0021](#))
- 4 Dickinson, Rob ([NEG0013](#))
- 5 Finance & Leasing Association ([NEG0018](#))
- 6 Freight Transport Association ([NEG0004](#))
- 7 Freshfields Bruckhaus Deringer LLP ([NEG0019](#))
- 8 Investment Association ([NEG0009](#))
- 9 Irish in Britain ([NEG0026](#))
- 10 London First ([NEG0001](#))
- 11 London Market Group ([NEG0020](#))
- 12 Michael Emerson Centre for European Policy Studies (CEPS) ([NEG0012](#))
- 13 O'Brien, Dr Charlotte ([NEG0008](#))
- 14 Port of Dover ([NEG0005](#))
- 15 Professor Dr. iur. Dr. rer. pol. h.c. Carl Baudenbacher ([NEG0014](#))
- 16 Professor Graham Virgo Pro-Vice-Chancellor University of Cambridge ([NEG0017](#))
- 17 Professor René Schwok Global Studies Institute University of Geneva ([NEG0016](#))
- 18 Rail Delivery Group ([NEG0003](#))
- 19 Stephen Woolcock LSE ([NEG0011](#))
- 20 TheCityUK ([NEG0002](#))
- 21 the3million ([NEG0022](#))
- 22 the3million ([NEG0023](#))
- 23 the3million ([NEG0024](#))
- 24 the3million ([NEG0025](#))

## List of Reports from the Committee during the current Parliament

---

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2017–19

First Report	European Union (Withdrawal) Bill	HC 373 (HC 771)
Second Report	The progress of the UK's negotiations on EU withdrawal	HC 372 (HC 862)
Third Report	The progress of the UK's negotiations on EU withdrawal: December 2017 to March 2018	HC 884 (HC 1077)
Fourth Report	The future UK-EU relationship	HC 935 (HC 1150)
Fifth Report	The progress of the UK's negotiations on EU withdrawal (March to May 2018)	HC 1060
Sixth Report	Parliamentary approval of the Withdrawal Agreement and the future relationship	HC 1240
Seventh Report	The progress of the UK's negotiations on EU withdrawal: Data	HC 1317
First Special Report	European Union (Withdrawal) Bill: Government Response to the Committee's First Report	HC 771
Second Special Report	The progress of the UK's negotiations on EU withdrawal: Government response to the Committee's Second Report	HC 862
Third Special Report	The progress of the UK's negotiations on EU withdrawal (December 2017 to March 2018): Government response to the Committee's Third Report	HC 1077
Fourth Special Report	The future UK-EU relationship: Government Response to the Committee's Fourth Report	HC 1150