

# When free movement ends: protecting the rights of EU Citizens in Wales



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## Summary

Freedom of movement comes to an end on 31<sup>st</sup> December 2020. This summary sets out what this means for EU citizens who wish to stay in Wales:

- EU citizens need to apply to the European Union Settlement Scheme (EUSS). Those who can demonstrate five years or more residency will be granted settled status; those with shorter residence will receive pre-settled status and will need to reapply for full status in due course.
- Those who do not apply by 30<sup>th</sup> June 2021 will, in theory, lose their legal basis to stay in the UK .They could face a hostile environment and possible removal from the UK.
- Applicants only receive digital confirmation of their status, and do not receive any physical evidence.
- Despite campaigns calling for changes to this system, it is unlikely that the policy will change. Therefore it is crucial that EU citizens who want to stay apply to the scheme.

## Feedback from EU citizens and stakeholders

- There are concerns that there is a general lack of awareness about the scheme in Wales, and that many people do not understand that they need to apply.
- Many EU citizens face barriers when accessing their rights because of misinformation or, at worst, discrimination.
- Face-to-face information and advice sessions have stopped due to Coronavirus, and those who are digitally excluded will not be able to access support through digital platforms.

## How can Welsh Government support EU citizens?

- Welsh Government has been supporting EU citizens by providing free advice, information and awareness raising initiatives. Yet, many more people still need to apply and time is passing.
- As a matter of urgency, the Welsh Government needs to increase communication with EU citizens and increase activity by outreach and advice so that they both raise general awareness and also reach particularly vulnerable groups. This support needs to continue beyond June 2021 deadline to support EU citizens who have not applied or who need to re-apply for settled status.
- To prevent discrimination when accessing services, frontline staff should receive training so they are not misinformed about EU citizens' rights and can provide general advice and/or signpost to another service.

# When free movement ends: protecting the rights of EU Citizens in Wales

Currently EU citizens have the right to live and work in the UK under free movement, whereas non-EU citizens must follow the immigration rules set out in the UK's immigration system. After 1 January 2021, free movement will end and EU and non-EU citizens wishing to move to the UK will (unless they are Irish citizens) be treated the same. This will cause one of biggest changes in the UK's immigration system in decades.

Ending free movement will have significant implications for Wales. It will affect approximately 80,000 EU nationals who are resident in Wales. It will also affect sectors such as the NHS and social care, Welsh universities, tourism, hospitality and construction, which have become reliant on this workforce and the skills they provide. Restricting international immigration to Wales could also affect population growth.

## What happens now?

The Withdrawal Agreement establishes Settled Status, in combination with the time-limited Pre-Settled Status, as the new immigration status for EU/EEA and Swiss citizens already in the UK. The status can be gained via an application system and is, therefore, not a simple registration. If the applicant is granted Pre-Settled Status they have to apply again for full Settled Status once they are eligible to do so (full Settled Status requires five years' continuous residence). The underpinning scheme managed by the Home Office is known as the EU Settlement Scheme (EUSS) and people have until the end of June 2021 to apply.

The scheme opened in March 2019 and since then the Home Office has released monthly updates on the numbers of applications; the latest count shows 3,536,000 applications across the UK<sup>1</sup>. Determining how many EU citizens have not yet applied to the scheme is difficult as there is no centralised record of the number of EU citizens living in the UK, so it is based on estimations using surveys, such as the Annual Population Survey and the UK Census (which is now nearly ten years old).

Although the Home Office report that the scheme is functioning well, existing research raises serious concerns with the scheme including the numbers of people who have received pre-settled status and will need to reapply for Settled Status at a later date – the onus is on the individual to reapply and this could mean that many will forget to do so.

Many have warned that this could lead to a repeat of the Windrush scandal if the scheme remains an application-based process with a fixed deadline.

The Bevan Foundation has been examining issues around migration and integration in Wales since June 2018 and during this work have heard from EU citizens who are affected by these changes. We have also heard from stakeholders who have been tasked with supporting EU citizens through the process<sup>2</sup>.

This paper sets out some of the concerns expressed by those we spoke to, and outlines the scope for the Welsh Government to support EU citizens over and above their current activity, particularly as immigration policy and the operation of the scheme is a reserved matter.

## Impact on EU citizens living in Wales

Since the 2016 referendum some aspects of life have been difficult for EU citizens living in Wales. While many people were concerned about the overall impact of Brexit and debating to what extent it may or may not affect our daily lives, EU citizens have had to endure over three years of uncertainty about their rights after Britain leaves the UK. As one EU citizen told us:

I have been here for a short while but you can see that Brexit has changed the mood. You cannot be sure what it is going to be like next month, after two years, it is change and change and change, it is a neverending story with Brexit. People cannot be sure what change next month. Most people came to the UK because they wanted some stability, stability in work in their lives. When I left the Czech Republic it was a stable country with a Queen and a long history ... not so poor like many other European countries

(EU Citizen, Newport)

Some stakeholders who work with EU Citizens referred to meeting and working with people who had become extremely anxious about their future rights to live and work in Wales. They said that some EU citizens had already left Wales due to this uncertainty:

They are concerned what will happen to them. Some people who have been here a long time are worried. Some people don't feel as welcome. Some have gone home and I haven't noticed that there are new Eastern European Learners

(Stakeholder, Carmarthen)

We found that some EU citizens felt reassured about their status because they had put down 'roots' in Wales, such as owning a house, having a job or having children who have been born in Wales or the rest of the UK. However, for some it caused significant anxiety, as one person who has lived in Wales for nearly 15 years told us:

I do get stressed about it but my husband calms me down and tells me not to worry and when I think about it I have lived here 14 years, I have always worked, okay I had two maternities but I was straight back, they cannot expect me to sell my house.

(EU Citizen, lived in Carmarthenshire in 2005)

Brexit – and the ending of free movement has caused many people to feel they are no longer 'welcome' in Wales, despite some having lived here for many years and feeling very accepted by the community in which they live. Some typical views are:

We always had free movement, this will be a central register for the Home Office to know where you are. This freedom has been taken away from us

(EU citizen, Newport)

I have gone from feeling welcomed here to 'I have permission to stay'

(EU citizen, Swansea).

Some said they have had to confront and challenge people they work with or live alongside and ask the question "do you want me to leave?". A common response has been "I don't mean you – I mean other people". As the following quote shows, it has made people question their own role and contribution to their community:

I used to do things in the community, but I don't now. At the time of Brexit I didn't think much of it. That was until two people I know stopped me on the street and said that they didn't vote for it – they didn't want me to leave. This made me think that there were people who had voted for me to leave. Once a week I used to litter pick on the street

around my house; now I say why should I do this for the community. I am line manager to a couple of 'Brexiters' ... They said that they wanted people to be sent back and I questioned if they meant me and they said no, so I asked do you mean my wife? And they said no! And then I asked if they meant my children and they said no. So who do they mean? But if they are talking about controlling immigration this means they can send people home

(EU citizen, Swansea).

While the issue of Brexit has led to a loss of feeling welcome, it has also contributed to a rise in racism. People we spoke to said that this has been encouraged by political leaders which had led to a situation where people have had the '*freedom to be racist*'. Hate crime figures do not always tell the whole story because many incidents are unreported, especially those that are said to be 'low level' and those that are directed towards EU citizens. In a recent Wales wide project, the anti-racism educational charity *Show Racism the Red Card* found that racism is widespread across the Welsh education system and that teachers are finding these issues are more prevalent since the 2016 referendum<sup>3</sup>.

The EU citizens we interviewed had either experienced racism and discrimination, witnessed it or had viewed hate speech online.

## The EU Settlement Scheme process in Wales

The European Union Settlement Scheme (EUSS) opened in March 2019 and EU/EEA and Swiss citizens already living in the UK will have until June 2021 to apply. Applicants will have to present documents to prove continuous residency in the UK and their status will be granted based on the length of time they have lived in the UK.

- those who have lived in the UK for five years or more will be granted settled status and will not need to reapply;
- for applicants with five years or less they will be granted pre-settled status and will need to reapply again once they are eligible to do so. They must have started living in the UK by 31 December 2020.

EU citizens and their family members lawfully residing in the UK by exit day will be able to continue to access benefits and services on broadly the same terms as now. People will be able to<sup>4</sup>:

- work in the UK
- use the NHS for free as they do now
- enrol in education or continue studying
- access public funds such as benefits and pensions, if eligible for them
- travel in and out of the UK
- These entitlements will be subject to any future domestic policy changes which apply to UK nationals.

Although control of immigration policy and operation of the scheme is a reserved matter, the Welsh Government is supporting EU citizens via the Citizens Rights Programme and has set up a group to co-ordinate advice provision across Wales. It has also provided additional funding to increase awareness and communication with EU citizens.

In July 2019, the Welsh Government announced a package of free support to help EU citizens prepare for Brexit and to continue to live and work in Wales. As a result, EU citizens can access free advice and support, including:

- digital support with their settled status applications or help with basic queries about eligibility from Citizens Advice;
- advice on social welfare issues and workplace rights;
- free specialist immigration advice for people with complex needs, delivered by immigration law firm Newfields Law.

Several organisations have been funded to assist people in Wales (some are funded by Welsh Government and others through the Home Office) and include CAB, Newport Mind, TGP Cymru and Settled. All are Office of Immigration Services Commissioner (OISC) Level 1 for EUSS accredited at least. The Ethnic Youth Services Team (EYST) Wales has been funded to run advice sessions with the assistance of accredited advisors from other organisations. Digital scanning centres are now available in Bridgend, Cardiff, Ceredigion, Caerphilly, Pontypridd plus some on border e.g. Hereford.

In addition, the *Preparing Wales*<sup>5</sup> website now sets out guidance and advice for EU citizens, organisations and sectors across Wales. Preparing Wales hosts both Welsh Government advice and links to the latest advice from the UK Government and other bodies. A new section on 'EU citizens in Wales' has been developed and includes information on EU citizens' rights for accessing public sector services in Wales. The information website will be maintained as new UK Government policies are made available.

The response has also included awareness raising activities, some examples are:

- distributions of posters and flyers promoting EUSS;
- newsletters to businesses and distribution of posters, flyers and key messages to business groups, such as the Federation of Small Businesses (FSB);
- Facebook adverts aimed at EU Citizens
- a press notice and video posted on the Counsel General and Brexit Minister's twitter account highlighting the message "We want EU citizens to stay";
- a presentation to Honorary Consuls with offices in Wales, chaired by the Counsel General, presenting the support package available to EU citizens.

The Welsh Government has expressed its continued support of EU Citizens living in Wales: in June 2019 the First Minister issued a Written Statement about the valuable contribution of EU nationals in Wales<sup>6</sup> and a few months later, in November, the Counsel General and Brexit Minister released a press notice titled "We want EU citizens to stay"<sup>7</sup> along with individual messages of support from many Members of the Senedd.

## Experiences of EU Citizens

Through speaking with EU citizens and stakeholders who are supporting them through the process, we have identified concerns that many people will not complete the EUSS application before the deadline. Some who have completed it many not have all the physical documentation they require. As a result, some people feel that there could be a repeat of the Windrush scandal in future.

Many organisations considered that despite efforts by the Welsh Government and the organisations funded to raise awareness, there is still a lack of general awareness about the scheme. Many are concerned that some people do not think that the scheme applies to them: for example we found that many EU citizens believe that owning a house, having children in the UK

or Wales or having a job or a business mean they do not have to apply. Some stakeholders told us about the difficult conversations they have had to have to explain the need to apply – sometimes with long-term residents of Wales:

I was talking to an Italian lady [who has lived in Wales] for 25 years and she has never had to get visas or anything and she found it really insulting ... I talked to another lady who has been here for 50 years, her parents have died, she has been married to a Welsh person and you could not explain to a person in her sixties why she has to do it, she just could not understand why

(Stakeholder, EU Rights organisation).

It also seems that many people are waiting until they fulfil the requirements of settled status, which could lead to a rush of applications just before the deadline.

Although some find the application process easy, there are others who face difficulties. For example they may have gaps in their residency or have non-EU family members such as former refugee communities (Somali, Sudanese etc.) with EU passports.

Some stakeholders told us that while they are reaching many EU citizens, they are conscious of the fact that some will slip through the net, such as older people or vulnerable people. We also heard that there are people who will be afraid of coming forward because they are concerned that they do not have the proper documentation and having been living ‘under the radar’ for many years. There are also those who have been difficult to identify – for instance those who have mixed heritage:

I am conscious of the fact that there may be some individuals that on the surface to do not appear to be EU nationals and how does the message reach them. I have met people by chance. I don’t know the numbers but they are there

(Stakeholder)

The online nature of the application has excluded many people who do not have the Android phone or iPhone 7 or above required to make a digital application. Some will also need to scan in documents – and will need to attend a scanning centre to which they have to travel. This is a particular issue for those residing in rural areas.

Throughout our work one of the main issues has been the concern that applicants do not receive any physical documentation to prove their status. Despite challenges at the UK level, the UK government has stood firm in its stance that they will continue to provide digital proof. Many feel this could lead to a repeat of the Windrush scandal and given the lack of trust in the Home Office, officials and ministers to handle these issues, it is felt that people are right to be concerned and suspicious of this policy:

It is like the Windrush, you are not given any card or anything, lots of our clients have printed out the screen shots and kept it in their handbags because they are scared because there is no physical evidence and people are reluctant to apply because they are asking why should I do that

(Stakeholder, Newport)

Some stakeholders told us that there are concerns about the security of their data and said that there had been several reports about alleged breaches which had made people anxious.

Some concerns were expressed around the lack of information that is reaching EU citizens via local authorities and employers. A number of issues were identified.

First, we found that employers are not informing staff about the EUSS. This was the case in a large international company:

My employer didn't give any information because I am the only foreigner ...

(EU resident, Swansea)

A worrying issue that was brought to our attention was around misinformation, discrimination and barriers in accessing rights. We found EU citizens are facing difficulties when contacting agencies including the Job Centre, GPs and landlords, who were sometimes misinformed about EU citizens' rights.

We learned that some EU citizens who had attended the local Job Centre only to be told they cannot apply for Universal Credit unless they have applied to the EUSS. This has encouraged EU citizens to apply for pre-settled status, even when they are eligible for settled status. Another EU citizen told us that when he had tried to register with a GP he had been asked to provide detailed information about his status that seemed excessive to him. He had had to attend the surgery on three occasions to register and commented that had he not had young children he would have given up.

We also found that many frontline organisations such as local authorities and employers were unable to provide any advice and support to EU citizens. It is understandable that they do not have detailed knowledge but some were even able to signpost to the relevant organisations.

One issue offering support to our staff around the EU Settlement scheme – we cannot tailor specific messages to our staff and this is seen as a deficit on our part – our system doesn't focus on nationality because it traditionally wasn't required

(local authority officer).

## How is Wales performing? What do the statistics tell us?

Determining how many EU citizens have not applied to EUSS to date is difficult as there is no centralised record. Figures are based on estimations using surveys e.g. Annual Population Survey. Notwithstanding these limitations at April 2020 the figures are as follows<sup>8</sup>:

- 86% of estimated eligible EU citizens in Wales have applied compared with 94% in England;
- 58% of applicants have been granted pre-settled status and so will need to reapply.

Despite the free advice and support available in Wales there are still people who have not yet applied, even if the estimated population is correct. However some consider that the EU population is larger than estimated and so there are many more yet to apply. The situation has now been complicated by Coronavirus, which has prevented face-to-face advice and information sessions taking place. These sessions have been extremely important in raising awareness, and also in supporting people who have complicated applications or who do not have access to digital platforms. It is unknown when face-to- face support will be able to return. However there are no plans to extend the application deadline beyond June 2021 to allow for this break in activities.

## The role of Welsh Government

We appreciate the Welsh Government has little control over the EUSS, but they can and do guide the messages that EU citizens and others hear. They also have responsibility for ensuring cohesive communities and play a role in encouraging people apply to the EUSS and they access their rights. To improve this, we recommend that Welsh Government build on its positive messaging through developing a more consistent and sustained message that is heard by all those living in Wales. This could be achieved through:

1. Developing a national integration strategy which encompasses all communities, including those residents from EU countries.
2. Funding and promotion of 'stories' which educate people about the lives of EU citizens living in Wales. We are aware of local authorities who are attempting to do this, and the Bevan Foundation is currently carrying out a project looking at 'What makes Wales my home' which attempts to break down barriers between local communities and EU residents, and develop a common ground. We will be reporting on this work shortly<sup>9</sup>.
3. Creating channels of communication with EU residents. We suggest the Welsh Government appoints an EU ambassador who could act as a point of contact in Wales and could advocate on behalf of residents at a local, national and UK level and could link with other organisations such as The3million<sup>10</sup> and Settled<sup>11</sup>.
4. Increase the efforts around outreach and advice, and ensuring these organisations are funded beyond the June 2021 deadline. This would provide support for those who have not applied, but also those who have received pre-settled status and will need to reapply. In addition, stakeholders are finding that people are coming to them with additional issues that they need support with, and it would be useful to keep up this service, particularly as there could be issues around the rights of EU residents in the future and the knowledge base amongst these advice organisations has grown.
5. Preventing discrimination by ensuring that frontline services and other organisations are fully aware of the rights and entitlements of EU citizens. We have been made aware that training is to be rolled-out, but there is an urgency to this as many people are being

prevented from accessing their rights due to misinformation and a lack of clarity on this issue. We also suggest the Welsh Government consider non-bias training in addition to this to ensure people are treated equally and fairly.

## The future

We acknowledge that Welsh Government has had little say on this issue and does not control the operation of the EUSS. However, it does have a huge role to play in making people who currently live in Wales feel included and welcomed and we believe that Welsh Government can build on its existing support through creating a distinct Welsh narrative that focuses on inclusion, welcome, fairness and equality.

We will be continuing our work in this important area. We feel it is a matter of urgency that all those who are eligible to apply have adequate advice and support for them to complete the application and access the rights they are entitled to, without barriers or facing any forms of discrimination.

## References

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