

PRACTITIONER EXPERIENCE OF WORKING WITH APPLICANTS TO THE EU SETTLEMENT SCHEME IN NORTHERN IRELAND



Crossing Borders, Breaking Boundaries

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Summary

In March 2019 the UK Home Office introduced the EU Settlement Scheme (EUSS), designed to register European Union (EU), Swiss and European Economic Area (EEA) citizens and their families who wish to remain in the UK after 'Brexit', the UK's departure from the EU. The research presented here suggests that the online EUSS application process has been efficiently implemented, and successfully navigated by applicants when supported by trained advisors. A clear focus on supporting and enabling applicants to complete the application process has been key to this success. Beyond the scope of this research, there remain concerns that the EUSS scheme has yet to engage fully with several 'difficult to access' categories of people, including looked after children, victims of trafficking and domestic abuse, and cross border workers.

To ensure the on-going provision of trained support networks, particularly for those with pre-settled status, and to encourage greater integration of newly arrived communities, government funding needs to be available to the conclusion of the EUSS application process. Continued support and advice for applicants, free at the point of delivery, is a vital resource ensuring that applicants engage and stay engaged with the application process, and do not avail of the service of untrained advisers working within some communities for profit.

The absence of proof or tangible physical evidence of status, similar to an ID card which is familiar to EU nationals, remains a concern for successful applicants. Evidence suggests that some landlords, employers and government agencies – for example when applying for Universal Credit – are currently asking for proof of settled status, though it is not yet a legal requirement.

Introduction

This research presented in this brief derives from the Crossing Borders, Breaking Boundaries (CBBB) project, a third sector initiative established in mid-2018. The project is supported by the European Union's PEACE IV Programme, managed by the Special EU Programmes Body (SEUPB). Focusing on the border counties of Northern Ireland (NI) and the Republic of Ireland (ROI), CBBB supports migrant workers and seeks to tackle sectarianism, discrimination and racism. The programme aims to engage with over 1,200 migrant workers, including workers from within the agricultural, food processing and services sectors. This research brief is based on interviews with Community Intercultural Programme (CIP) advisers. CIP, one of the CBBB partners, is also a partner in the South Tyrone Empowerment Programme's (STEP) 'Stronger Together EU Support Project', which provides EUSS advisers across Northern Ireland. The Stronger Together project aims to assist and advise vulnerable EU citizens in their application to the EU Settlement Scheme.

Literature Review

Due to the relatively recent introduction of the EU Settlement Scheme (EUSS) in early 2019, the related academic literature remains limited. The main source of commentary on the scheme is on-line material, with some additional grey literature. Godin (2019) regarded the introduction of the EUSS, piloted in 2018 and launched in March 2019, as an extension of the 'hostile environment', at least in part reflecting the narrative of 'bad migrant' i.e. 'anyone who had relied on social benefits at some point in their past was perceived as problematic compared to those with a continuous HM Revenue and Customs (HMRC) record' (2020 p. 137; see also Godin and Bica, 2019). For Tomlinson the EUSS represented a trend evolving towards a 'new, distinct model of immigration administrative justice, which is heavily influenced by technology'.

and particularly automation [which] represents the continuation and acceleration of a trajectory towards quicker justice at the expense of safeguards (2019, p.5). Tomlinson raised administrative justice concerns regarding decision making by the Home Office in the period after the public outrage relating to the Windrush generation (Smismans, 2019).

The lack of physical proof of status has been criticised by groups including the3million, a leading NGO in the UK which works to protect EU/EEA and Swiss citizens' rights. In their Settled Status Survey (Bueltmann, 2020) they reported that 11% of respondents had been asked for proof of settled status, although it is not legally required, and 89% of respondents were unhappy with the lack of a physical document. The demand for physical proof of status came from landlords, estate agents, banks, councils, schools, GPs, hospitals, recruitment agencies, employment agencies, airports and embassies. The absence of physical proof has also been raised by the EU's Brexit Steering Group. The backlog of cases has also been raised as a concern, with levels rising to 306,000 in January 2020 (The UK in a Changing Europe, 2020), making it unlikely the backlog will be cleared by the end of the current funding period. Free Movement has also reported on the phenomenon of 'disguised refusals' where EU citizens are granted pre-settled status, despite being eligible for the full settled status (2020).

Background to the EU Settlement Scheme

The UK's decision to leave the European Union necessarily resulted in significant changes to its immigration system, and to the status of approximately 3.35 million EU/EEA and Swiss citizens (hereafter 'EU citizens') living within the UK (Sturge and Hawkins, 2020). In effect, those EU citizens (and family members) with five years' continuous residence in the UK by 31 December 2020 are in a position to apply for 'settled status', those short of five years' residency on that date will instead be eligible for 'pre-settled status', qualifying them to remain in the UK until such time as they have

reached the threshold for settled status (Home Office, 2018).

For those EU citizens who arrive in the UK before the end of December 2020, there is a six-month grace period up to the end of June 2021 to apply to the EUSS (Home Office, 2018). Initial plans to charge applicants to the scheme - £65 for adults and £32.50 for a child- were dropped in 2019.

The financial investment by government is considerable. The digital system developed for EU citizens to apply for settled status cost £63m, and immigration minister Caroline Nokes indicated that around £170m was allocated for 2018-19 to develop and deliver the EUSS (Trendall, 2019). It was anticipated that the Home Office investment in the digital application process, and the cross linking with HMRC data, would ensure that for most applicants, legal advice would not be required, and decisions would be rapid (Rutter and Ballinger, 2019). The EUSS requires applicants to scan their identity documents using the 'EU Exit: ID Document Check' application (available via Android and Apple). Applicants require either a biometric passport from an EU/EEA country or Switzerland, or a UK residence card with a biometric chip for a non-EU family member of an EU, EEA or Swiss citizen. For applicants who can't scan their documents digitally, they can, for a fee, visit a document scanning centre, including one in Belfast. Some initial estimates suggested that around 70% of potential applicants in the UK would have the correct information about the EUSS and would have problem free applications (Rutter and Ballinger, 2019), with about 30% at risk of encountering problems relating to individual circumstances and the way the application system operates (Sumption and Kone, 2018). There are also additional suitability criteria to navigate, including criminal convictions.

The Home Office assigned more than 1,500 operational staff to the EUSS and from April 2019 provided up to £9 million of funding for 57 voluntary and community sector organisations to support vulnerable applicants. Funded organisations were tasked with delivering

support to an estimated 200,000 people, many of whom considered marginalised or in need of extra help. In Northern Ireland, Advice NI and the South Tyrone Empowerment Programme (STEP) received funding. STEP's Stronger Together EU Support Project provides 36 trained advisors in nine locations across Northern Ireland and includes the CIP team. The funding period was initially due to conclude in March 2020, which prompted the Chief Executive of Praxis, which assists homeless applicants to the EUSS, to state that:

“the government is pushing us towards a cliff edge. This is a vital service needed to secure the future of thousands of people...[but] charities providing this service don't know if the funding is going to continue beyond the end of March and there comes a point at which you have to end staff contracts, because it's a financial risk to continue employing people without dedicated funding” (in Bulman, 2020)

In response to these and similar concerns, on March 6th, 2020 the Home Office decided to extend the funding period, making available a further £8 million over the 2020-21 financial year to help vulnerable EU citizens apply to the EU Settlement Scheme. Charities and local authorities will bid for further funding to continue to provide support to clients across the UK.

There remain concerns about delays in the EUSS. Bulman has highlighted concerns raised in the legal community regarding people 'being illegally blocked from getting jobs and renting homes in the UK due to lengthy delays in the Home Office's EU settlement scheme' (online, 2020). Cases include spouses of European citizens, some of whom wait many months for their applications to be concluded. Government guidelines suggest that cases should take around five days but can take up to a month in some cases (Home Office, 2020a).

Background to the EUSS in Northern Ireland

The Institute of Conflict Research (ICR, 2018) highlighted some of the initial concerns in Northern Ireland. Reporting on a meeting between EU nationals and MLAs in the NI Assembly, ICR highlighted the lack of detailed specific information or advice, concerns about residency, a diminished sense of belonging, and concerns around accessing work, healthcare and education. Smyth reported that Brexit “has sparked “panic” among migrants living in Northern Ireland according to grassroots groups working with families who are fearful for their future” (2018), noting a surge in advice requests to organisations including, Law Centre NI, Advice NI, and the Northern Ireland Human Rights Commission.

Current Statistics from the Home Office

Home Office data for May 2020 indicated that a total of 3,612,400 had applied to the EUSS, with 76,400 applications in May. The total figure included 189,800 non-EEA, non-Swiss nationals. The low number of applicants in April (67,300) and May no doubt reflects the impact of the Covid-19 pandemic from in March 2020; the comparable figure for February was 235,800. In terms of overall applications, the main countries to the end of May 2020 were Poland (697,900), Romania (590,100), and Italy (363,600), followed by Portugal (280,800) and Spain (219,000). As of 31 May 2020, 3,319,100 applications have been concluded; 57% had received settled status, and 41% pre-settled status. The report indicated that of the remaining applications, 28,900 received a withdrawn or void outcome, 14,100 were invalid and 900 were refused (up from 700 in April). Of the total refusals, 99% were refused on eligibility grounds and 1% were refused on suitability grounds. Later headline data released in August 2020 by the Home Office indicated a sharp increase in refusals by 31 July 2010, up to 4,600 for a total of 3.81 million applications, of which 3.59 million were concluded.

The Home Office's data for April 2020 noted that from February 2020, the Home Office had begun to refuse applications on eligibility grounds, noting that 'many of these eligibility refusals relate to cases that had been under consideration for several months and, in most cases, subject to repeated unsuccessful attempts to obtain missing evidence or information from the applicant' (2020, p.3). With this level of pre-settled status or 'limited leave to remain', critics of the EUSS have highlighted the potential impact on the system as people re-apply for settled status i.e. there 'will be around one million individual cliff-edges and EU citizens will need to be informed accurately and on time about their rights' (Bulat, 2020). Home Office data (2020c) indicated that in Northern Ireland concluded outcomes granting settled status were highest at 65%, compared to Wales, Scotland and England (62%, 61% and 57%).

At the end of July 2020, the breakdown of the 3.81 million applicants in the UK was as follows - England (3,467,200), Scotland (190,600), from Northern Ireland (62,600) and Wales (62,700). Home Office (2019) figures indicated that for Northern Ireland the main applicant groups between August 2018 and September 2019, with an overall total of 22,400, were Polish (6,650), Lithuanian (3,310), Portuguese (2,680) and Romanian (2,320). Between August 2018 and June 2020 the top five nationalities applying in Northern Ireland were Polish, Lithuania, Romania, Portugal and Bulgaria (Home Office, 2020c). In January 2020 an estimated 78% of potential applicants in Northern Ireland had applied to the scheme. Data released in August 2020 (Home Office, 2020c) indicated that Northern Ireland had a noticeably higher proportion (18%) of applications from people under 18 compared to the rest of the UK.

Research Findings: Community Intercultural Programme (CIP) Practitioner Experience

CIP is a partner within the Stronger Together Partnership which was tasked with supporting vulnerable EU citizens who require assistance making their application for settled status in Northern Ireland. The Stronger Together project was one of 57 applications across the UK to be awarded funding by Home Office to provide support. The key value of the CIP team is its bilingual CIP staff members, who have provided information and one-to-one support to EUSS applicants, covering a range of languages - Portuguese, Polish, Lithuanian, Romanian and Bulgarian. Other organisations within Stronger Together EUSS Partnership have supported these and other language groups via partners across Northern Ireland. Within the partnership, CIP's work is supported by specialised immigration advisors and lawyers at South Tyrone Empowerment Programme (STEP), the Law Centre NI, and the Children's Law Centre.

- In early March 2020, CIP had supported and processed circa 2,800 clients through the EUSS application process.
- In general, the application process was reported to have worked well, people were granted a status and did not face major disruptions in the process. The 'EU Exit: ID Document Check' app appears to have been a success. The on-line system also successfully integrated several government databases. For an applicant with the requisite documentation, the registration process takes no more than 10 minutes to complete.
- Most of main national groups within the CIP client base have engaged with the EUSS application process, including the Portuguese, Romanian, Bulgarian, and Lithuanian communities. The Polish community numbers are lower than expected, though this may well reflect a greater self-reliance in that community and less need for third party support.

- Engagement with the various nationalities was relatively straightforward. Public awareness of the need to engage the EUSS was raised through the long drawn out Brexit debate, the sequence of high profile Parliamentary debates, and the series of headlines and deadlines highlighted by the media in the UK and in Europe. The effect was to hold and focus the attention of migrant communities. For example, CIP typically had 250 cases each month – in the lead up to October 31st, 2019 the figure doubled.

- The role and outlook of individual European states can be influential. For example, initially the Polish government offered support to CIP to assist the local Polish community register with the EUSS. After a few months this position changed, replaced with a Polish government attitude which proactively encouraged their citizens to return home. Similarly, Polish media encouraged the return of Polish nationals. In the period, this position was unique to the Polish state. The approach in part may explain anecdotal evidence of a high return rate home of Polish nationals.

- A range of persistent challenges relating to the application process have been identified, including language issues, literacy issues, challenges for applicants without the required paperwork / records, IT illiteracy, limited IT access to the application system, applicants who have no current email address, applicants who misplace, forget or lose password information, the impact of changes to applicants' phone numbers and email addresses particularly for those with pre-settled status, the challenges of updating information on line, and the continuing need to challenge myths about who is exempt from registering for settled status.

- Parents are not always convinced of the requirement to obtain settled status for their children.

Whilst many migrant workers have successfully engaged the EUSS and acquired their legal status, this may not be the case when it comes to their children, particularly with regard those children born in NI. Come January 2021, these children will have no legal right to remain in the UK.

- For those applicants granted 'pre settled' rather than 'settled' status, the main issue was the requirement for further documentation or evidence to prove residency over a five-year period. This was particularly the case for those not in work, or without a bank account, those not registered with a GP or in receipt on benefits over a period. In these cases, letters from church, a Sure Start group, sports club or a community group etc. need to be obtained as proof of residency.

- Some larger employers have proactively engaged with the EUSS process, providing access to support from party organisations like CIP, or in-house support via Human Resource personnel.

- Within national communities, some individuals have voluntarily provided help and support to assist fellow nationals with their applications. However, in some cases mistakes have been made, which need later to be rectified by CIP.

- There is evidence of profiteering by a few untrained / unqualified individuals, charging £20 per case to support applications from within their own community. The poor quality of this assistance has potentially stored up issues that will play out over time.

- Continuing support for those with pre-settled status will be required over the short to medium term.

- The legacy of the EUSS support project is a greater recognition of support services for newly arrived communities.

- Key to the success of CIP's support programme is its in-depth knowledge of its client base.

- The programme of work undertaken by CIP in relation to the EUSS process has had positive results for the organisation in that it has generated additional clients for the CIP network and extended the remit of CIP's work.

Conclusion and Recommendations

CIP reported that for most of its clients the EUSS application process has been successfully navigated. The success of the CIP programme demonstrates the benefit of providing a service based upon a strong pre-existing network of advisors. Furthermore, CIP's success reflects their focus on support to enable individuals to complete the application process, rather than simply advising clients on how to engage with the process. This positive approach is validated by exceeding CIP's client engagement target.

There remain several key concerns, not least that the current Home Office approach has failed to engage with some of the most vulnerable and difficult to reach target groups, including looked after children / children in care, victims of domestic abuse and human trafficking, and those with mental health issues. A further set of challenges relates to the required evidence and documentation, for individuals in certain categories, including for cross-border workers i.e. those who work on one side of the border and work on the other side, and for non-EU individuals married to EU nationals.

The lack of tangible physical evidence of status, similar to an ID card which is familiar to EU nationals, remains a concern for successful applicants. This chimes with Bultmann's (2020) finding wherein almost 90% of survey respondents were unhappy about the lack of a physical document. From a practical perspective, physical proof of status, rather than digital proof, would reduce opportunities for discrimination.

To ensure the on-going provision of trained support networks, and to encourage greater integration of newly arrived communities, government funding for support needs to be available to the conclusion of the EUSS application process. This support may be most useful to groups wherein complications have been identified, including for some women, the self-employed, unemployed, pensioners, children and students. CIP has highlighted the potential impact of children not currently registered by

their parents, an issue which will potentially become prominent in 2021. The continued support and advice for applicants, free at the point of delivery, is a vital resource ensuring that applicants do not avail of the service of untrained advisers working within some communities for profit. The Home Office needs to address the issue of profiteering by unqualified individuals. To ensure greater coverage of the target population, the EUSS scheme requires greater support from and engagement by, employers and local councils. In addition, more information needs to be made available to employers, banks, landlords, and any other relevant organisations to ensure they are informed of what is (and isn't) required of EU nationals in terms of proof of legal status. Though it is not yet a legal requirement, evidence suggests that some landlords, employers and government agencies – for example when applying for Universal Credit – are asking for proof of settled status.

The UK government needs to continue to provide information encouraging people to stay engaged with the application process, in order to counteract the views of some individuals, including those who have been resident in NI long-term, who believe they are exempt from the process, even if they have no existing status. For those applicants with pre-settled status, there remains potential for them to 'drop out' of the system over time and either remain in 'under the radar' communities locally or to return to Europe. The EUSS system needs to generate regular and clear reminders to individuals and trained advisers. To build and maintain confidence in newly arrived communities transitioning through the EUSS application process additional funding should be made available to support civil society organisations to deliver a range of community programmes that promote the positive integration of newly arrived communities in Northern Ireland.

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