

Jane Hutt AS/MS
Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip
Minister for Social Justice and Chief Whip



Llywodraeth Cymru
Welsh Government

Jenny Rathbone MS
Chair, Equality and Social Justice Committee
Senedd Cymru
Cardiff Bay
Cardiff
CF99 1SN

SeneddEquality@senedd.wales

19 December 2023

Dear Jenny,

Thank you for your letter of 24 November. I note the questions you have raised within your correspondence, and I provide a response to those questions below:

IMA Assurance Review: Looked after children and care leavers

In July 2022, the Independent Monitoring Authority (IMA) for the Citizens' Rights Agreements wrote to all 22 local authorities in Wales seeking assurance that they are discharging their responsibilities with regards to making and supporting EU Settlement Scheme (EUSS) applications on behalf all eligible looked after children, children in receipt of local authority care and support, and care leavers. As you've noted, the IMA then published an interim report, outlining IMA concerns over the processes and systems in place in some Welsh Local authorities.

Since this time Welsh local authorities have worked collaboratively with the IMA. The IMA has recently confirmed that it is now assured that all 22 local authorities in Wales have taken proactive measures to improve their processes, procedures, and management information to ensure they are protecting the rights of EU looked after children and care leavers.

[IMA is assured that local authorities in Wales are protecting the rights of EU looked after children and care leavers - Independent Monitoring Authority \(ima-citizensrights.org.uk\)](https://www.ima-citizensrights.org.uk)

The IMA sought assurance in three key areas:

1. robustness of the identification processes;
2. accurate record keeping; and
3. completion of retrospective checks.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Jane.Hutt@llyw.cymru
Correspondence.Jane.Hutt@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

As a result of the measures taken by local authorities in Wales, the IMA now grades all 22 local authorities as 'green' in each of these areas. The IMA's final findings were outlined in the **Assurance Review (Looked after Children and Care Leavers) Annex 1a: Wales Follow on review**, which was published in November 2023. There are currently no Welsh local authority cases which remain open.

This report can be accessed via: [Wales-Follow-On-Review-November-2023.pdf \(ima-citizensrights.org.uk\)](https://www.ima-citizensrights.org.uk/Wales-Follow-On-Review-November-2023.pdf)

The Welsh Government is pleased with the findings of that report and the IMA has commended all local authorities in Wales for their engagement in this work. This work has also enabled local authorities to identify additional numbers of children being eligible for the EU Settlement Scheme, and upon successful application, will guarantee their rights to continue to live, study and work in the UK.

The Welsh Government will continue to support all local authorities in Wales to implement robust processes to identify and support eligible cohorts in line with the Home Office guidance.

EU citizens and NHS treatment costs

Welsh Government officials have liaised with all local health boards in Wales and determined that no EU citizens accessing relevant health services in Wales have been affected by the system error.

Changes for pre-settled status holders

In June, I wrote to the UK Government calling for better engagement with Devolved Governments in relation to the Home Office plans to implement the High Court ruling following the judicial review. To my disappointment, the UK Government did not take this request into consideration when they announced the changes to the immigration system in July. The Welsh Government were not consulted on the proposed changes to the EU Settlement Scheme and did not receive advance warning prior to the announcement being made.

I wrote to the Parliamentary Under-Secretary of State in August to inform the Home Office that this lack of engagement has a detrimental impact on the ability of Devolved Governments to effectively implement the policy. However, in recent weeks, there has been an improvement in engagement and Welsh Government officials are now meeting regularly with the Home Office as it develops policy changes post-judicial review outcome.

Welsh Government officials are also in regular contact with the IMA to ensure a clear understanding of what the recent changes to the immigration system mean for citizens with pre-settled status. The Welsh Government website and the Sanctuary website have been amended to reflect these changes, as has the Welsh Government EU citizens' rights information leaflets.

The Welsh Government welcomes the extension to pre-settled status and the automatic upgrade of settled status, as this reduces the burden on EU citizens and reduces the likelihood of people ending up without secure status. However, the Welsh Government has asked the Home Office for clarity about how they will notify citizens who are not eligible for the automatic upgrade. This is to ensure that those citizens are aware that they will be required to apply to switch from pre-settled to settled status. We have been reassured that

all individuals who cannot be automatically upgraded to settled status will be notified appropriately.

On your point of related statistics, the Home Office has responded to our request for statistics on the number of pre-settled status holders who have been automatically upgraded to settled status and we have been reassured by those numbers. However, this information is not in the public domain and the UK Government is not including this data in the routine publishing of the EUSS Quarterly Statistics, therefore we cannot share those statistics.

Late applications

Welsh Government officials have voiced concerns around the removal of the administrative review process. There will still be genuine EU citizens who are applying late to the scheme and are refused because of the tightening of validity criteria and case worker guidance around reasonable grounds. We urge any citizen who has been refused and believes they have made a valid late application to contact one of the Welsh Government-funded organisations for support.

The Welsh Government has not been made aware of any issue with increased refusal rates or delays, but stakeholders have made us aware that the complexity of cases they are dealing with is an issue. Stakeholders are needing case workers with OISC level 2 and even level 3 accreditation to deal with the cases they are now seeing.

The Welsh Government has recently offered grant funding to Welsh organisations to increase the provision of immigration advice in Wales. This funding allows organisation to upskill their current employees to offer higher level OISC accredited advice. The funding covers the training, examination and registration with the OISC.

Home Office officials have stated that while there continues to be high numbers of late applications, these are mainly repeat applications and not new applications, which is the reason for the tightening of the validity criteria. The Home Office officials have further stated that they are keen to ensure that genuine late applications are not delayed due to the Home Office being inundated with repeat applications from citizens who are not eligible for pre-settled or settled status and have been refused status.

The number of late applications made by EU citizens in Wales saw a decline over the spring and summer months but application numbers are again rising. The Welsh Government has asked the Home Office for a breakdown of application types but we have not yet received a response to this request. The latest EUSS Quarterly Statistics can be accessed via: [EU Settlement Scheme quarterly statistics, September 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-september-2023)

No applications

The UK Government did not consult the Welsh Government on the plans to close the Zambrano and Family Permit routes and were only notified when the UK Government announced the changes to the immigration rules in July, confirming the closure of both routes.

However, the Zambrano right to reside in the UK ceased to exist at the end of the post-EU withdrawal transition period at 11pm on 31 December 2020 and is not covered by the Withdrawal Act Agreement with the EU or the citizens' rights agreements with the other European Economic Area (EEA) countries and Switzerland. The UK decided to provide

those with such a right to reside in the UK by the end of the transition period with access to the EU Settlement Scheme, until the route closed to new applications on 8 August 2023.

Under EU free movement, the EEA family permit enabled non-EEA national family members of EEA citizens (including extended family members) to join them in the UK. When free movement ended on 31 December 2020 and in line with the Withdrawal Agreements, the EEA family permit route closed to applications from extended family members (other than durable partners), and on 30 June 2021 to other applications. EEA family permits ceased to be valid for travel to the UK after 30 June 2021.

Since 1 July 2021, the Home Office issued an EU Settlement Scheme (EUSS) family permit to those direct family members and durable partners qualifying for it who could not be issued an EEA family permit because that route had closed. Whilst the EUSS Family Permit route closed on 8 August 2023, it will remain open for individuals who already hold status, have a pending application or are under appeal.

With evidence that applications via those routes from Welsh residents were very small in numbers, the Welsh Government does not believe the closure of these routes will have a major effect but, as always, prior warning from the UK Government would have enabled better analysis of this.

Welsh Government Support

The Welsh Government has extended the EUSS Advice Services provided by Settled and Citizens Advice Cymru with both organisations funded to provide services until 31 March 2024.

Citizens Advice and Settled provide quarterly reports to the Welsh Government on the services they provide which does include the number of citizens they are helping to successfully submit an application to the EU Settlement Scheme. However, the number of citizens seeking advice is less of an issue post-deadline. It is the complexity of cases that is increasing.

The Welsh Government funds the Travelling Ahead project at TGP Cymru to deliver advice and advocacy support to Gypsy, Roma and Traveller (GRT) communities. The Travelling Ahead project seeks to have a positive impact on people's lives through supporting community members to ensure accommodation security, access services and benefits and engage with decision makers and public services.

The objectives of the service are to:

- Facilitate equality of opportunity for Gypsies, Roma and Travellers within Welsh society.
- Provide support and connect with expert advice services to help community members integrate effectively into Welsh society, including advocating changes to public processes where necessary.
- Support community cohesion through challenging negative stereotypes and fostering good relations between groups.
- Empower communities and individuals to have a voice and make representations on their own behalf on policy development and any other issues raised.
- Support the Welsh Government to eliminate discrimination and advance equality of opportunity.

Officials are beginning a new procurement exercise to re-tender the provision of advice and advocacy support to GRT communities, with the intention of avoiding any break in services available.

TGP Cymru continues to be funded by the UK Government to provide level 1 OISC EUSS Advice services to the Roma community. We do not have data on the number of individuals needing support but we are not aware that there is any increased demand in advice for the Roma community.

The contract for Newfields Law to provide EUSS Advice Services has ended on 31 March 2023, however, Newfields Law continue to engage with the EUSS Co-ordination Group. There continues to be free legal advice available to EU citizens in Wales via the grant funded organisations and via the services the EU Delegation to the UK offer.

Ukrainian applications

Up to 30 September 2023, 15,260 Ukraine nationals across the UK applied to the EU Settlement Scheme. However, the latest EUSS Quarterly Statistics do not provide a breakdown by country and as such we are unable to provide an updated figure of how many applicants were resident in Wales at the time of application.

The EUSS Co-ordination Group has not made the Welsh Government aware of any specific issues for Ukrainian citizens following the closure of the Family Permit Route.

The EUSS Co-ordination Group has now formally closed and is being replaced by a broader EU Citizens' Rights Forum. The new group will cover EU citizens' rights as well as the EU Settlement Scheme. Membership and Terms of Reference have been agreed and the first meeting of the new forum is due to take place in the new year.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal stroke above the first name.

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