

Agenda – External Affairs and Additional Legislation Committee

Meeting Venue:	For further information contact:
Video conference via zoom	Alun Davidson
Meeting date: 1 February 2021	Committee Clerk
Meeting time: 14.00	0300 200 6565
	SeneddEAAL@senedd.wales

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health.

This meeting will be broadcast live on senedd.tv.

Registration period

(13.30–14.00)

1 Introductions, apologies, substitutions and declarations of interest

(14.00)

2 Motion under Standing Order 17.42(vi) to resolve to exclude the public from item 3 and items 6 to 9

(14.00)

3 Food and feed safety and hygiene provisional common framework – technical briefing

(14.00–14.30)

(Pages 1 – 35)

Emily Miles – FSA

Nathan Barnhouse – FSA

Break

(14.30–14.40)



- 4 Wales in the UK – roundtable discussion with academics**
(14.40–16–10) (Pages 36 – 50)
Professor Nicola McEwen – The University of Edinburgh
Akash Paun – The Institute for Government
Professor Daniel Wincott – Cardiff University
- 5 Papers to note**
(16.10–16.15)
- 5.1 Paper to note 1: Citizens Advice Cymru briefing: Changes to freedom of movement after Brexit**
(Pages 51 – 68)
- 5.2 Paper to note 2: Correspondence from the President of the European Committee of the Regions and the President of the CoR–UK Contact Group to the President of the European Commission regarding the Trade and Cooperation Agreement**
(Pages 69 – 71)
- 6 Wales in the UK – consideration of evidence**
(16.15–16.30)
- 7 International agreements**
(16.30–16.40) (Pages 72 – 78)
- 8 Consideration of common frameworks summary documents received**
(16.40–16.50) (Pages 79 – 80)
- 9 Future relationship with the EU**
(16.50–17.00) (Pages 81 – 85)

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Agenda Item 4

By virtue of paragraph(s) vi of Standing Order 17.42

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**cyngor ar
bopeth**

**citizens
advice**

EALC Changes to freedom of movement after Brexit

Agenda Item 5.1

January 2021

Citizens Advice Cymru are pleased to provide an update briefing for the External Affairs and Additional Legislation Committee's review of the Inquiry Freedom of Movement after Brexit.

We would like to provide evidence to members of the Committee from the perspective of our Welsh Government funded EU Citizens Rights project which is geared towards providing information, guidance, advice to EU/EEA/Swiss nationals and their families with EU Settlement Scheme applications (OISC Level 1 casework) and also specialist advice to ensure they understand their workplace rights and are able to challenge exploitation. Please see the [service homepage](#) for further details.

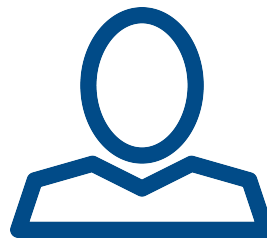
We have participated in both rounds of focus groups, the initial round in 2019 and the most recent on the 13 January 2021 to support the committee's final deliberations on the inquiry. We hope this briefing will provide a useful addition to the input to these sessions on the basis of our client's experiences.

The EU Citizens Rights Service is available on 0300 3309 059 between 9am to 5pm, Monday to Friday

If you have questions or would like more information on the content of this briefing, please contact:
[***policy.cymru@citizensadvice.org.uk***](mailto:policy.cymru@citizensadvice.org.uk)

Project Statistics

Since the project's inception:



We have supported over 2,000 clients

With 8,263 issues



Including 4,230 immigration and asylum cases
(which also involves EUSS applications)

And, 3,300 employment issues



The majority of these cases are to deal with issues around settled and pre-settled status and linked issues, including the immediate challenges of completing applications through a digital process and the required documentation to achieve this; access to benefits and housing, along with fair employment practices.

Common Issues

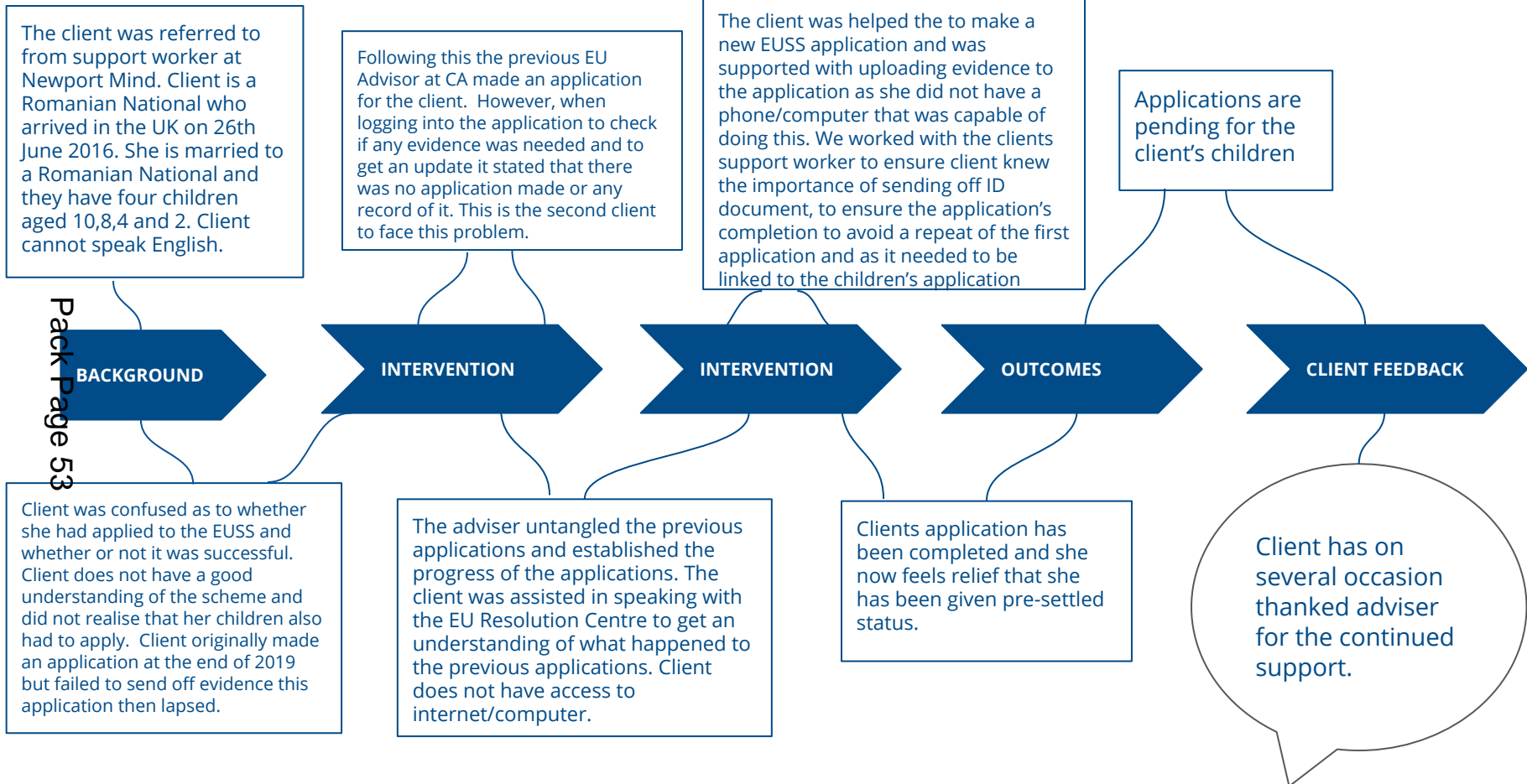
We have appended a **selection of case studies** that bring to life these common issues and can be listed below, most of which are related to UK government policy and procedures but have a significant effect on our clients.

- **I.T:** Many clients don't have access to the right smartphone, are not confident in sending of documentation (especially national ID cards, passports or birth certificates) to the Home Office
- **Facial recognition technology:** On these apps have been discriminatory for BAME in the fact it can take several takes/photos to be accepted.
- **Accessing benefits:** EEA nationals living in the UK have to prove that they are eligible to receive benefits. If an EEA national has been living in the UK for 5 years or more, they can apply for settled status. This automatically means they have a right to reside and should be able to access benefits. However, our evidence forms show that clients with settled status are still regularly being rejected for benefits in error by the DWP. We are also seeing an increasing number of people who are refused Universal Credit who can demonstrate their pre-settled status but are struggling to evidence their "right to reside" and often find themselves in a situation without recourse to public funds if they cannot access our support. Our recent report [Nowhere to Turn](#) (Section 2) provides further detail of this evidence on the issue of "Right to reside and the HRT for EEA migrants" and makes the recommendation that the Habitual Residence Test should be temporarily suspended from the application process for benefits such as Universal Credit.
- **Problems with accessing an NI number:** and therefore gaining employment. Employers should be accepting an EU passport as evidence of right to work, but some employers are refusing jobs for clients without NI numbers, causing more problems around integration, especially around benefit eligibility and the need to obtain worker status on pre-settled status to be eligible for the means tested benefits.
- **Further Information:** They have also seen an increase in EU citizens being asked to provide further identification at job interviews when passports have been provided, which has continued to pose a problem and causes concern for future employment practice being directly or indirectly discriminatory.
- **Long Waiting Times:** Clients have experienced long waiting times to try and get an appointment with embassies to renew national ID cards or passports that have expired in order to be able to apply to the EU Settlement Scheme online. Multiple embassies are not answering calls, or responding to our clients' emails when individuals try to make direct contact with their Embassy.
- **Evidence:** The fact that Settled or Pre-Settled status can only be evidenced by a Home Office email/correspondence without a physical "status" or "identity" card is likely to cause problems for many citizens (particularly those who are digitally excluded or illiterate) wanting to upgrade their status from pre-settled to settled in the future, and/or to access public services and jobs.

Recommendations

- ① The Welsh Government should seek to fund a sustainable and accessible immigration advice services to enable that non UK citizens (including those who would have qualified for the EUSS) to have continued support around their immigration status, accessing public services and general citizenship support post the grace period, especially in light of the approach taken with the Nation of Sanctuary Plan, the investment made to support EU citizens with their EUSS applications under the banner "We want you to stay in Wales" and the right to vote in local and Senedd elections for Qualifying Foreign Citizens.
- ② We would suggest that all Government departments review their facial recognition technology for the public so that it is non-discriminatory and look to introduce UK identity Cards for those with settled and pre-settled status.
- ③ Habitual Residence Test should be temporarily suspended from the application process for benefits such as Universal Credit.

Digital Exclusion and issues with EUSS updates/outcomes



Family of 5 supported with third country applications despite lockdown challenges

The client is an EU Citizen, and has lived in the UK for just under 2 years. The client is married with 4 children, all Pakistani nationals. The client works 40 hours a week, claims tax and child benefits and lives in a privately rented property.

It was deemed vital for the clients to apply for settled status as a matter of urgency, ask they risk becoming 'overstayers'. Coronavirus legislation meant that they had an additional week to process an application,

Advisers faced the additional challenge finding a third party organisation willing to support the family, due to Coronavirus.

The client was provided with support to the point of referral, in exceptional circumstances. It seemed like there was no options available for the client under the lockdown, however the persistence of our advisers meant they could be supported.

The client has obtained pre-settled status, via the EUSS Scheme, but called the service for further advice. It was established that the clients family required applications to remain in the UK. Through an interpreter, it was established that the family had a 6 month visa that was due to expire in July.

Upon exploration, the client's circumstances proved challenging as they had no smartphone, access to internet, or computer at home or family or friends who they believed would be competent enough to handle a complex immigration application. Compounded with the suspension of all f2f advice, it seemed like there was no way forward.

The situation was escalated to a team leader, who liaised directly with Cardiff Council, who was able to secure an appointment for the client for face to face support in order to process their application.

The client showed gratitude for the support, that Potentially meant the client avoided overstaying their visa. A call was arranged with the client to check in two weeks after

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Assisting family with EUSS & UC applications during Covid 19

The family are EU Nationals and have one child who is 18 months old. The family contacted the service through the EUSS Helpline. The father had been laid off work before the Covid 19 lockdown and mum was at home looking after the baby. The family were struggling financially, felt isolated with nowhere to turn for help.

The clients were given an EU Settlement WhatsApp appointment within 48 hours and in meantime were sent the "How to Make and Application for Settlement" in their preferred language of Romanian familiarise themselves with the process of making an application.

The Child had a temporary passport and at a distance it was not possible to get this through the system

The clients were also provided with additional information on making a Mandatory Reconsideration on their UC outcome, and were referred to the Help to Claim team for additional support.

The family really appreciated the help and they felt they were not alone with their problems. They now understand how to get help and what to expect from the service.

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The Dad did not know how to check the status of his application and had done all he could, and also needed to make an application for his wife and infant child. There was additional urgency to this as the family were refused Universal Credit under the habitual residence test in February.

On exploration it became apparent that the Dad's EU Application for pre-settlement was complete but client need to send his non-biometric ID to EU Settlement Resolution Centre. The Mum was also supported with an application and had to follow the same steps to finalise her application.

It was explained to the clients that they would receive a text to confirm when they can send their ID's to the Settlement Centre, and in the meantime their applications will remain open, and Newport CA offered a follow up call to check if they needed further support with the child's application.

The clients were provided with a direct line number to the Newport CA for support. Despite the challenges of lockdown, the clients were offered a holistic service that tackled both their Settled Status and UC issue,

Immigration rules creating conflict within EU Nationals' families.

The client is an EU national and her partner is a UK Citizen who have lived together for 25 years. They have two children both born in the UK. The parent's research suggests their youngest child is automatically a UK citizen.

At an EU Event the client is supported to apply for settled status, and supported with their questions regarding the status of their child. They called the Citizens Advice immigration Helpline at the event to confirm their child's status .

The client is supported with their own Settled Status application and referred to MIND to complete an application for sponsored settlement for their eldest child, while one of our own volunteers researches alternative ways to secure the child's status.

The family were supported with settled status for the EU National parent and given a way forward for their child, who now had the tools and information to seek full UK citizenship.

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They suspected that the older child is not, simply by the fact that their parents are not married and the child was born before 2006. The client is really distressed and the situation causes conflict between the two siblings, as the older child would wish to identify as a UK Citizen.

It was confirmed that the youngest child was automatically a UK citizen, due to being born after 30th April 2006, but the oldest was not as their parents weren't married and the child was born between 1983 and 2006.

Our research finds a possible affordable and way that the client can apply for citizenship on behalf of their child on the basis of their father's status as a UK National, potentially saving time and money for the client.

The family now has clarity on their status and can now go on to resolve the 'inequality' between their children that had divided their family for a number of years.

Victim of domestic abuse supported with Settled Status application

The client is an EU National with young children and not working, due to childcare. The client is living with an abusive partner.

The client is referred by a the Domestic Abuse and Safety unit, and made an appointment with the project to support her with a Settled Status application.

The client has lived in the UK for over 5 years therefore is granted settled status, which means she can prove her right to reside in order to claim benefits.

The client expressed her relief and confidence that she could return to Citizens Advice for further support in future.

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The client is considering leaving her partner but fears she will not be able to claim benefits and said she would struggle to prove her right to reside in order to claim benefits.

The client requires further evidence for her application and is supported to gather this in order to submit the application.

The client can now be confident that she will be supported when the time is right for her to leave her partner.

Securing the future of a South Asian man with EU passport and his family

Client is a middle aged husband and father of 3. He and his family live in a 2 bed PRA in cramped and challenging condition. The family pay in excess of the LHA for an accommodation of this size. In addition to the Client's salary, the family receive CB and Tax Credits

CI was eligible to make an application to the EUSS based on his 5 years residence, if evidenced, and would lead to settled status. This would give the CI Indefinite Leave to Remain. Because of the Client's work record it was possible to process his application using his EU Passport to prove his identify and his NINO to prove is residency and received outcome immediately showing he'd lived in the UK for over 5 years. This status would be confirmed by email letter.

It was possible to refer the family to Newfields Law for clarification of the impact on the wife's immigration status based on the family's idea to leave the UK and live in South Asia for around a year. The final session linked the older children to their father's application and finalise mum's application using her NINO and tax credit records, and the youngest child's application birth cert.

The Client felt empowered to make changes to the families cramped and challenging housing problems and was referred for housing support at one of our regular appointment slots with Shelter on same premises . The Client and his family are confident they can now meet the challenges of the changing benefits system. They also had information on how to request an Income Maximisation appointment.

The CI is originally from South Asia and in 2000 gained dual nationality status in an EU country. The CI's 3 children have the same dual nationality. The CI wife remains a citizen of South Asia with no other nationality. They're all in good health and have no additional needs.

We arranged a second appointment for the Client, his wife and their youngest child. It became apparent the client had not understood the necessity to check his Hotmail account for emails for Home Office. The wife does not speak English and to ensure the wife was fully informed we used Language Line to interpret by telephone. It was possible to link the Client's wife and youngest son to his application to be completed at the third session using the wife's Biometric Residency Card and the child's birth certificate.

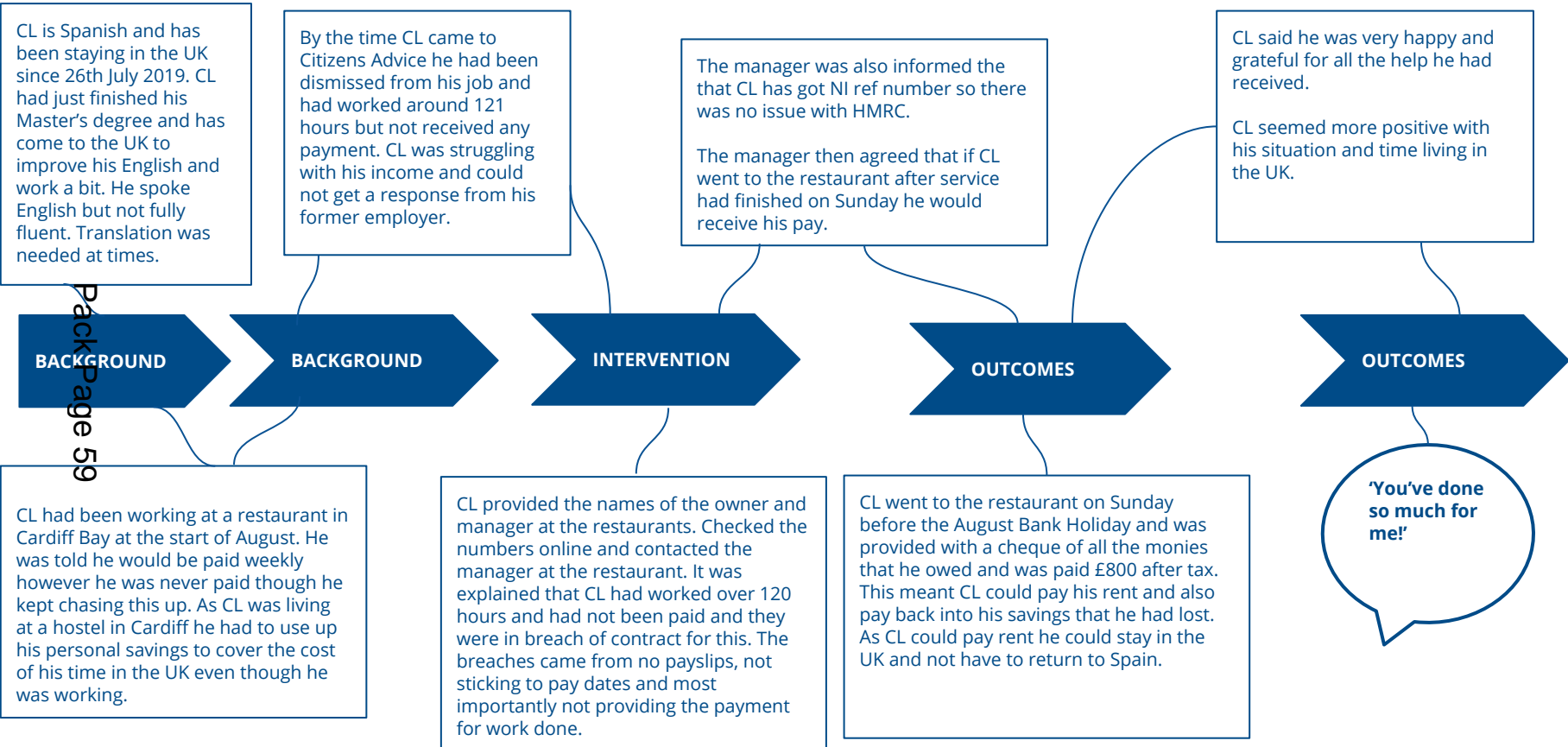
The family are able to secure their futures in the UK post Brexit, allowing them access to essential Health Care, Education and allowing them to continue to make a positive contribution through work and study.

The Client commented "Now we feel safe. It means we can help our lives".

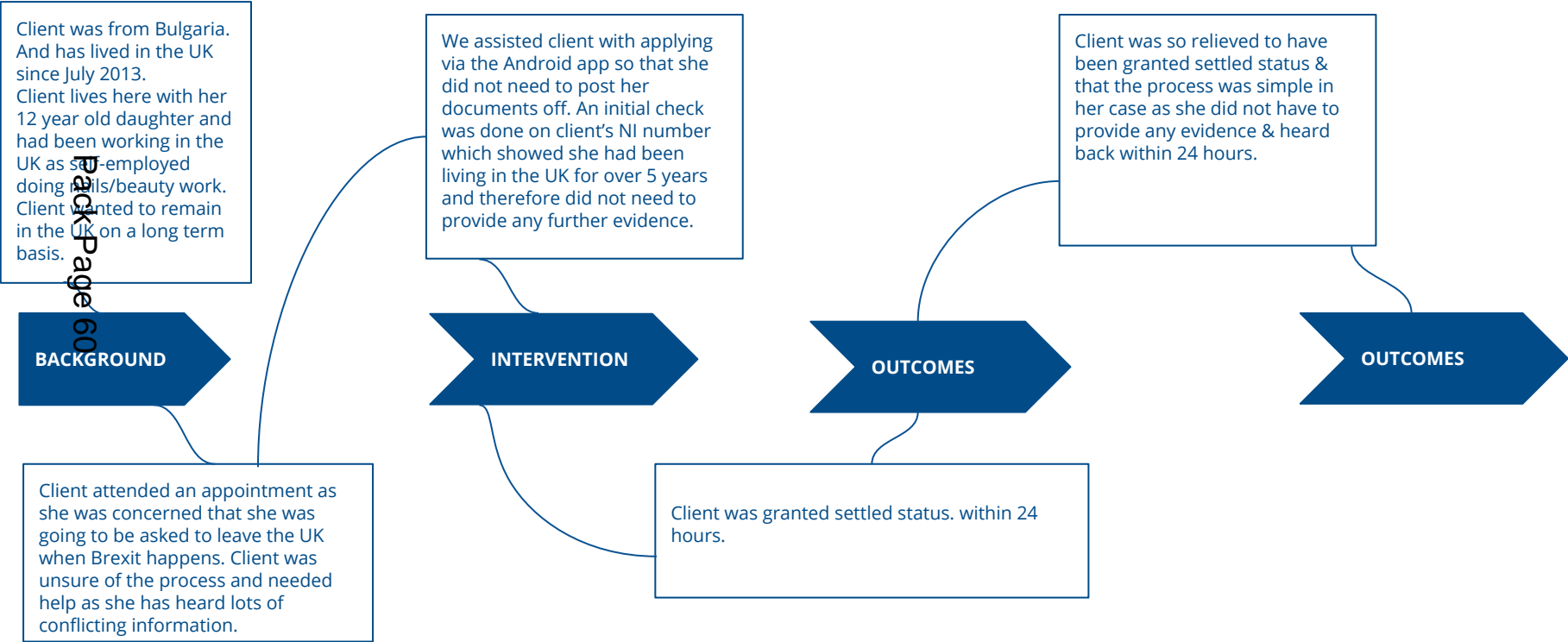
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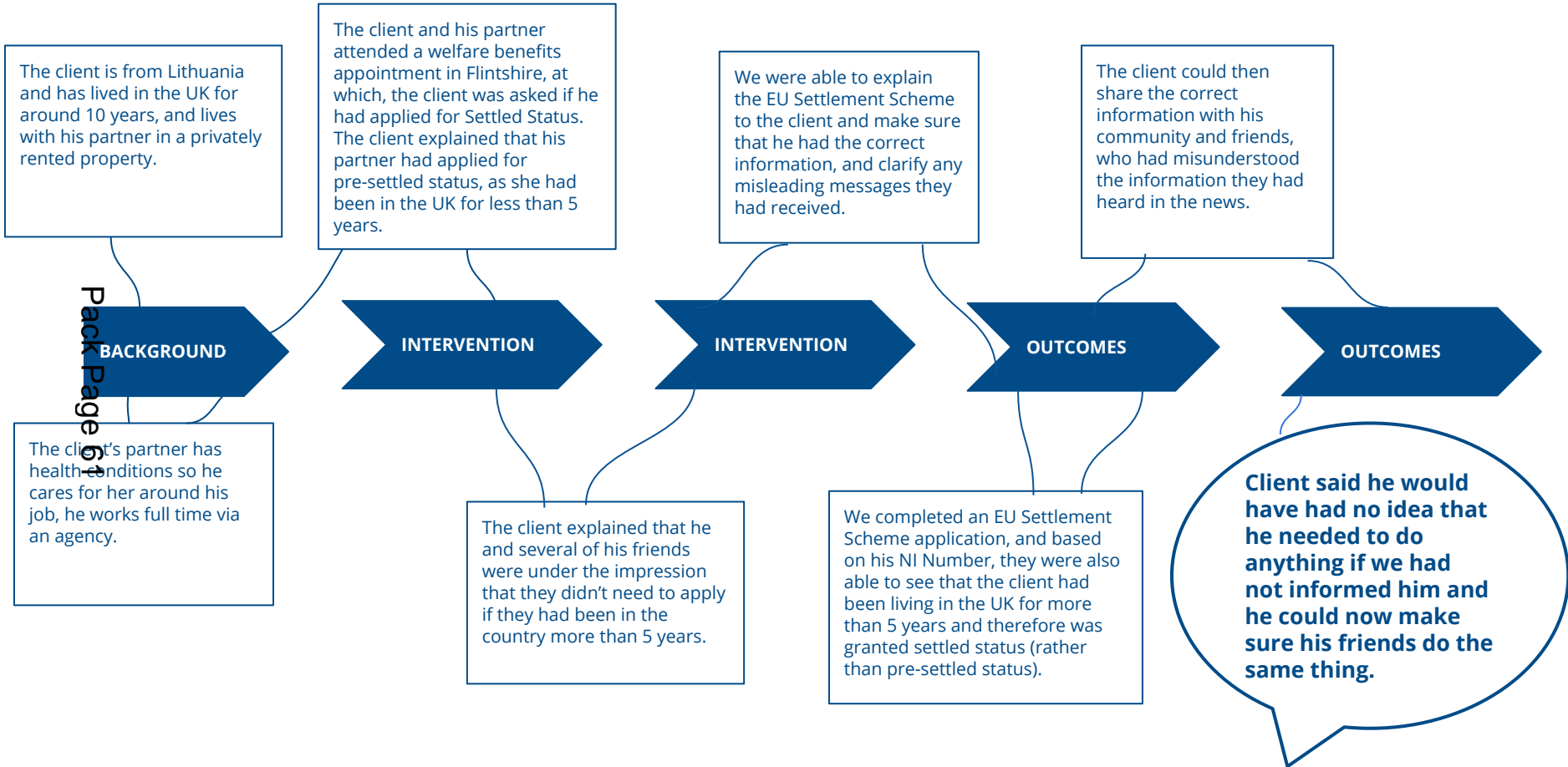
Helping Spanish national recover 121 hours of salary and enable him to stay in the UK



Bulgarian national granted settled status within 24 hours with LCA help



Misinformation leads to client (and his friends) being unaware of the need to apply for EUSS



EU Citizen supported with numerous issues raised by his application

Client is an EU National. He is a husband and father of three children all under the age of 12. The Client arrived in the UK in 2014 and did not speak any English and immediately found work through word of mouth.

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The client attended an EU Settlement appointment for himself and his family members and was supported with an application. The client was asked to provide additional evidence because his residence could not be evidenced through his National Insurance Record as the record is incomplete.

The client was very anxious about his situation and felt he could not trust what he was being told. The adviser was able to refer him internally to Newport Citizens Advice Debt Specialist Team, which provided him with a seamless in house support on several of his issues.

Client's well-being has improved because he does not feel he is alone with his problem and feels more confident about dealing with it because he felt he was believed.

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The client like many of his fellow nationals, had worked in a car-wash and was paid in cash and told the "Accountant" was dealing with NI and Tax payments. The client explained this "Accountant" is now serving a prison sentence and the car wash business no longer exists.

During the course of the appointment the Client disclosed he has been asked to repay over £20K in Working Tax Credits. This repayment is being claimed because the client had been deemed not to have been working due to being paid cash in hand from his employer, and having no records.

The experience of in house debt advice means he had a real chance of managing this debt and moving forward in his and his family's life in the UK. With ongoing support, it's hoped that the client can properly evidence his rights to stay in the UK.

Dismissal during notice period leaves Polish client underpaid

The client is Polish and had been living in the UK since 2007. He is married with a 3 year old son. The client had been working for a company for 11 years in quality control.

However, the client received a letter on 8th August stating as of 17th July he was no longer employed, but the client did not give his notice until 22nd July.

Client visits Citizens Advice Cardiff and Vale for support

We wrote a letter and spoke to the employer regarding the money owed. They stated the issue was with their solicitor. Due to being close to the deadline, after a week of no answer, the client was assisted in ACAS early conciliation.

The client was very happy with the help and grateful with the help and grateful to get the money he wanted

BACKGROUND

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OUTCOMES

OUTCOMES

The client was signed off sick for a total of 4 weeks and provided his manager with sick notes. As the client was struggling with a bad back he decided he would hand in his notice with his final sick note taking him up to the end date. Notice was handed to HR and his boss accepted.

In his final pay, money was deducted for holidays owed, and no other payment was made. The client did not hear from his employer bar the letter, and no meeting was held. The client wanted £94.25 and £400 for a weeks notice of pay.

The client was advised that the employer didn't follow a fair procedure for dismissal, so would have grounds to challenge this. As the client gave two weeks' notice and the employer cut the notice period short that would be classed as the employer terminating the contract, meaning they would not have to pay for the week in lieu of notice.

The client was empowered by Citizens Advice, and after an early conciliation call from ACAS and the client received the £494.25 that he wanted and gained an understanding of his rights.

Polish national wrongly requested proof of right to work in the UK

Parik Page 64

The client was a Polish been living in the UK for 14 years though she has not applied for Settled Status she was aware of it and deadlines and was going to apply. She worked full time but as she couldn't go home for the Christmas period, she applied for some holiday work at a store to keep her occupied during the Christmas break. After completing the online assessment, was invited in for a job interview.

She tried to explain that as an EU citizen until the end of June 2021 that you only need to provide an EU passport and employers should not challenge this. However, the managers asked for resident permit cards as proof of status. As the managers still didn't understand the right not to provide further evidence you were not given the interview.

In going against the guidance by asking for further evidence and refusing to continue the interview, it could be argued that the client was placed at a detriment and discriminated against because of your nationality and a breach of Section 9 of the Equality Act 2010, Race is one of the 9 protected characteristics of the Equality Act which includes nationality and ethnic or national origins.

Ongoing assistance with the grievance and dispute.

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CLIENT FEEDBACK

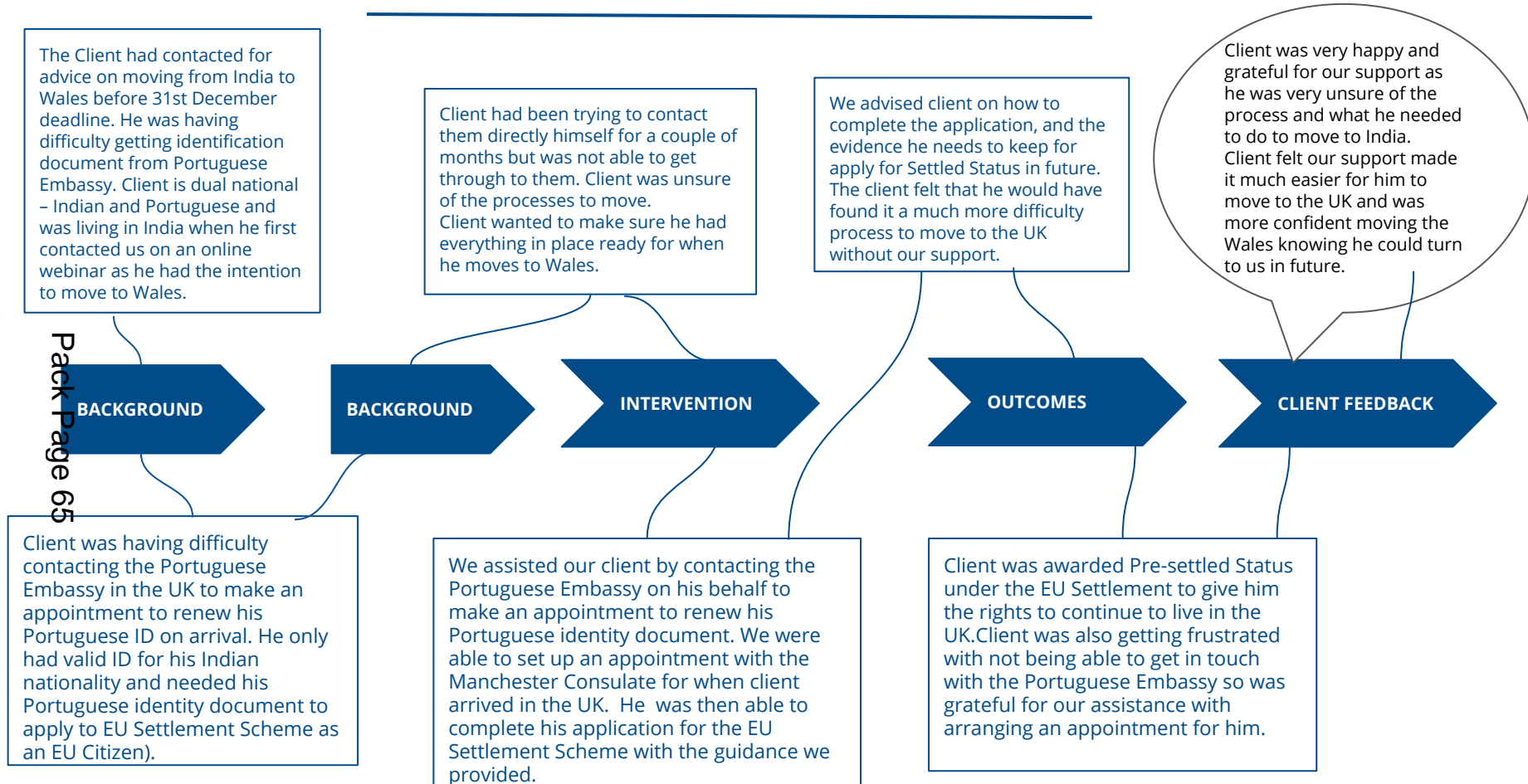
Before the interview started the managers requested proof of the right to work in the UK. The client had payslips with her NI number on and also her Polish passport. One of the managers went to check the passport as she said she has not seen one of those before. The manager came back in and asked for further evidence of right to work in the UK.

Advised that though the UK was nearing the end of the Brexit transition period, the rights of EU citizens remain in some areas, such as their right to work in the UK. The guidelines states that EU, EEA & Swiss can use their passports or ID cards as forms of evidence of right to work in the UK until 30th June 2021.

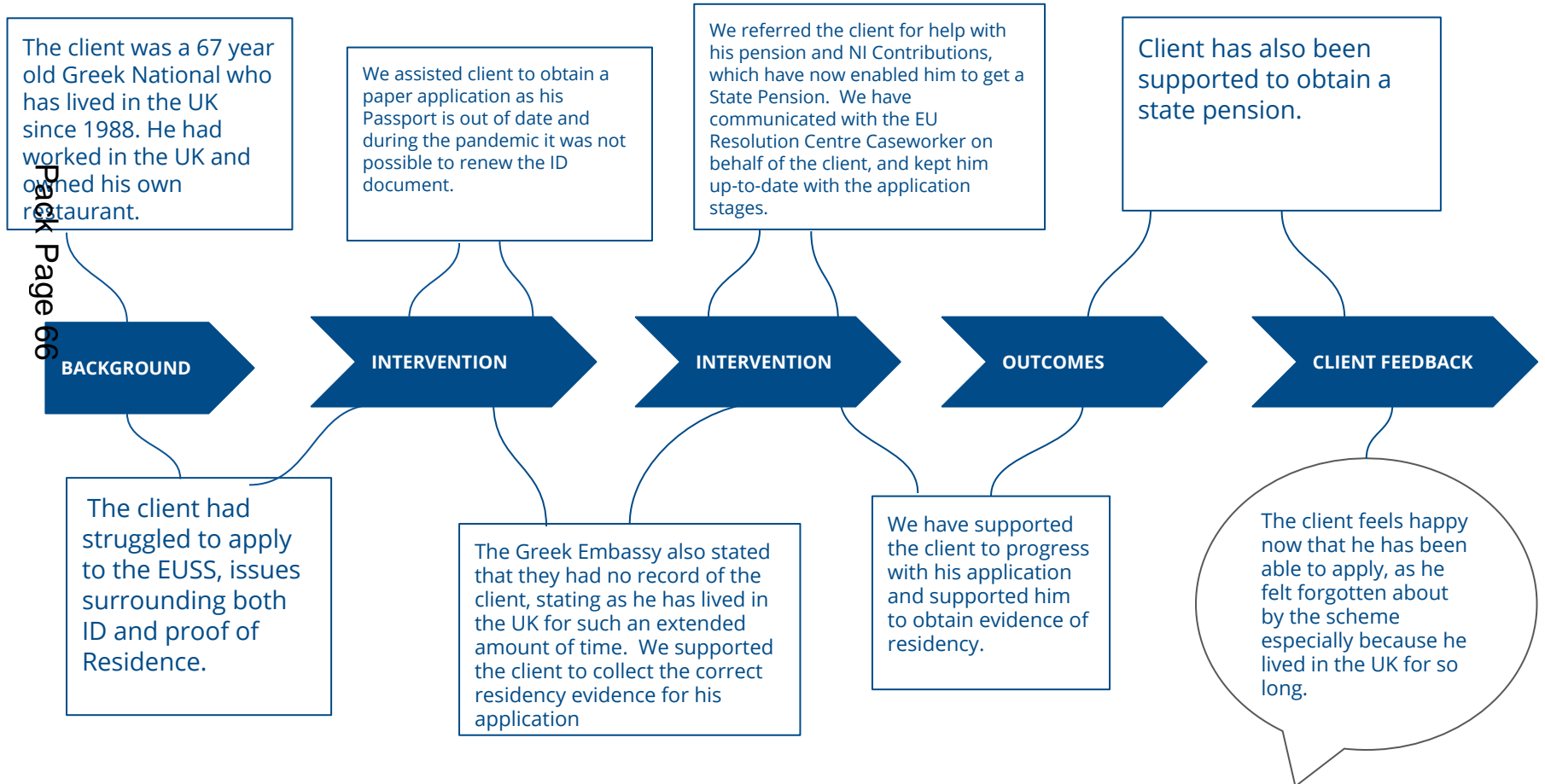
The equality act covers the job application/ interview stage. The client was assisted in writing a grievance about the discrimination and the process of tribunal, offered help at next stages should client require this.

The client was very happy for the help and thinks it is a great idea to have the project helping EU nationals when there seems to be little assistance from the government.

Dual Nationality



Greek national who has lived in the UK since 1988



Surrinder Singh case law EUSS application

Client stated that she was a Swiss national, formerly Iraqi. She had been in the UK since January, formerly living in Sweden and Switzerland.

The client had telephoned with her partner and enquired about her obligations to apply to the EUSS. She and her partner stated they had begun a paper form application and wanted some clarification while going through the form. She was also advised she would be ineligible for means-tested benefits until she can show she has obtained worker status, by doing significant work within the UK for a consistent period.

After inspecting the documents provided by the client face to face, a Swedish residence card was provided along with evidence of residency. It was also established that his partner that she is an Iraqi national and not Swiss.

The client was also advised that this type of application would fall into the OISC Level 2 grouping, referral to Newfield's law.

Client consented and accepted referral to Newfields Law.

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BACKGROUND

Client wasn't claiming benefits and was not working. She was living with her husband (British) in privately rented property. The client didn't have children and was married.

INTERVENTION

After being told of her nationality as a Swiss citizen, the client was advised under the normal EUSS process for pre-settled status as client stated she has been here from Jan 2020. The client and her partner, who were frustrated and confused with the paper-form process, were advised that for a simple application within the rules should be completed online, and the relevant ID to be scanned with the EU Exit app.

INTERVENTION

Client advised that a Surrinder Singh application is where a non-EEA national exercised treaty rights in an EU country with an EU or British national. So as there are periods spent living in Switzerland and Sweden, she could be eligible under this route.

OUTCOMES

CLIENT FEEDBACK

Client was satisfied that we identified the error and didn't complete and ineligible application. The client was happy to be offered a referral for free specialist advice.

Pregnancy Discrimination

The client had been working as dental nurse from 11 June 2018 and was dismissed on 8th November 2019 as the dentist/owner said it was not working for him. The client returned from holiday on 7th August and the boss gave her a hug and said it was good to have her back.

The client was rushed to hospital for bleeding and was signed off by the doctor for two weeks. The client states a nurse said they overheard that the owner complaining that CL taking another week off.

The client went into work the day of her dismissal and was made aware that other staff were aware that she was going to be dismissed and were aware of her pay out.

Client was assisted in raising an appeal and ACAS Early Conciliation. Neither were successful so a claim to an Employment Tribunal was submitted. The Client was assisted and represented on this case along with the settlement negotiations. A settlement of £1,000 was initially offered as a good will gesture. However, a final settlement of £6,500 (tax free) was along with a reference.

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That night, the client found out that she was pregnant and told her boss the next day due to safety reasons as she couldn't use the dental practice X-ray machine. He then stormed off and told the receptionist. CL has had 12 miscarriages previously so sensitive about telling people.

There was no risk assessment done and he asked the client to undertake cleaning, which involved climbing.

Client feels since she told the owner that she was pregnant that his attitude changed and he became very rude to her, bullying and belittling.

Client thinks the only reason she was dismissed was the timing as she became pregnant when two other nurses were already pregnant and would be going on a maternity at the same time as the other two.

The client has been very grateful for all the help over a very stressful time and appreciated the support on the claim itself. She is also very happy with the settlement outcome.

Agenda Item 5.2

Dear Colleagues, Dear Friends,

As you know, the European Committee of the Regions intends to play an active role in fostering relations with the UK through the political work of the CoR-UK Contact Group which I have the honor of chairing. We aim to ensure the continuation of dialogue between EU and UK local and regional authorities, devolved parliaments and assemblies, representing their interests and contributing to the development of the new relationship with the UK.

At our recent CoR-UK Contact group meeting on 11 January, we assessed the Trade and Cooperation Agreement concluded between the EU and the UK from the local and regional perspective. Members regretted in particular the lack of recognition of the important role of local and regional authorities in the implementation of the agreement and in the future EU-UK relations. They called for the participation of local and regional authorities (LRAs) in the structural bodies created under the agreement, or within a new specific body that would enable LRAs to be heard on a structural basis on issues of regional and local relevance.

In this regard, I would like to inform you about a letter we have recently sent to the President of the European Commission, Ms Ursula Von der Leyen, which I co-signed together with the President of the Committee of the Regions Mr Apostolos TZITZIKOSTAS. In this letter, a copy of which I attach for your information, we propose the structured involvement of local and regional authorities and our institution within the EU delegation to the Joint Partnership Council as a possible pragmatic approach. We have also sent similar letters to Mr McAllister, Chair of the European Parliament-UK Coordination Group and to Mr Michel, President of the European Council.

This letter may be of interest to you in your internal discussions on the role and participation of UK local government, devolved parliaments and assemblies in the future implementation of the Trade and Cooperation Agreement.

I look forward to meeting you at our next Contact Group meeting in July.

Kind regards,

Loïg CHESNAIS-GIRARD
Chair of the CoR-UK Contact Group
(President of the Regional Council of Brittany, France)

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Our institutions will continue to play an active role in relations with the UK through the political work of our CoR-UK Contact Group (chaired by Loïg Chesnais-Girard) and through the consultative work of the Commission for Citizenship, Governance, Institutional and External Affairs (chaired by Mark Speich) and Commission for Economic Policy (chaired by Michael Murphy). These political bodies will ensure the continuation of dialogue between EU and UK local and regional authorities, representing their interests and contributing to the development of the new relationship with the UK. We will monitor and analyse the territorial impact of Brexit, as well as the impact of the financial instruments designed to mitigate the consequences of the withdrawal, seeking to ensure the Brexit Adjustment Reserve matches the needs of local and regional authorities and that they are properly involved in the shaping of its implementing measures.

We believe that a strong cohesion policy, reinforced European territorial cooperation programmes such as Interreg, the PEACE programme and other instruments such as the European Grouping of Territorial Cooperation, should be further developed and promoted within the new relationship. In this context, our CoR-UK Contact Group will reflect on ways to ensure the continuity of our cooperation with UK's devolved administrations and local governance, including through the implementation of new tools of partnership, such as a possible future macro-regional strategy including the UK.

We look forward to our continued cooperation in this most important area.

Yours sincerely,



Apostolos TZITZIKOSTAS
President of the European Committee of the Regions
(Governor of Central Macedonia Region, Greece)



Loïg CHESNAIS-GIRARD
President of the CoR-UK Contact Group
(President of the Regional Council of Brittany, France)

Copy to: Mr Maroš Šefčovič, Vice-President of the European Commission

Agenda Item 7

By virtue of paragraph(s) vi of Standing Order 17.42

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