

Jeremy Miles MS

Counsel General and Minister for European Transition

17 February 2021

Dear Jeremy

### Changes to freedom of movement after Brexit – follow up work

The External Affairs and Additional Legislation Committee has conducted a follow-up inquiry into the changes to freedom of movement after Brexit. The Committee first looked into this matter in 2019. We published our [report](#) on changes to freedom of movement after Brexit – implications for Wales, on 8 November 2019, and you provided the Government's [response](#) on 20 December 2019.

At its meeting on 18 January 2021, a panel of academics provided the Committee with an updated view of the situation as it now stands. At its meeting on 25 January 2021 the Committee met with the EU's Ambassador to the UK, His Excellency João Vale de Almeida in order to gain an understanding of the EU's perspective on EU citizens' rights in Wales after Brexit. EU citizens residing in Wales and partner organisations gave their perspective of the situation at a series of focus groups hosted by officials during January 2021, a summary of which was provided to the Committee at its meeting on 25 January 2021.

I have included details of the evidence we gathered in Annex A, and a summary of the evidence we received and the Committee's recommendations in Annex B.

At the same time, I am writing to Kevin Foster MP, Minister for Future Borders and Immigration at the Home Office, to set out the actions we would like to see the UK Government take in relation to this work. I enclose a copy of that correspondence, and will also provide a copy of this correspondence to him.



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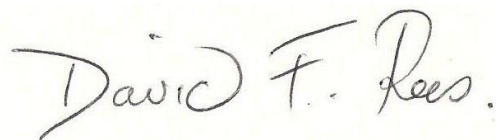
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I would appreciate it if you would provide your response by Wednesday 10 March 2021 so that it can be put before the Committee before the end of this Senedd.

Yours sincerely,

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style and is set against a light yellow rectangular background.

David Rees MS

Chair of the External Affairs and Additional Legislation Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



# Annex A

## Changes to freedom of movement after Brexit: evidence session with academics – 18 January 2021

- Marley Morris - Institute for Public Policy Research
- Dr Claire Thomas - Bevan Foundation
- Madeleine Sumption - The Migration Observatory, Oxford University
- Professor Jonathan Portes - King's College London

[Read the transcript](#)

[Watch on Senedd.tv](#)

## Changes to freedom of movement after Brexit: The EU's Ambassador to the UK – 25 January 2021

- His Excellency João Vale de Almeida - EU Ambassador to the UK

[Read the transcript](#)

[Watch on Senedd.tv](#)

## Changes to freedom of movement after Brexit: EU Citizens and partner organisation engagement – January 2021

All participants or the organisations they represent shared their views with the Committee during focus groups in Cardiff in September 2019 and / or in the online forum group, Loomio, which preceded the focus groups.

- [Focus group summary](#)
- Written evidence – Citizens Advice Cymru
  - [Briefing](#)
  - [Case studies](#)



## Annex B

# Changes to freedom of movement after Brexit – follow-up inquiry

1. Following the end of the EU transition period, the External Affairs and Additional Legislation Committee undertook follow-up work looking into the changes to freedom of movement after Brexit.
2. At its meeting on 18 January 2021 the Committee held an evidence session with academics in order to receive an update on the matters considered during the original inquiry, including the progress of the UK's EU Settlement Scheme in Wales and any further outstanding issues.
3. At its meeting on 25 January 2021, the Committee met with the EU's Ambassador to the UK in order to gain an understanding of the EU's perspective on EU citizens' rights in Wales after Brexit.
4. In January 2021 a series of focus groups were held with EU citizens residing in Wales and representatives from organisations involved with the EU Citizens' Immigration Advice Service to gather their views on the implementation of the EU Settlement Scheme.
5. The evidence below has been collated from these sources.
6. Some of the concerns raised relate to historic or ongoing issues which were reported to the Committee during the original inquiry. In addition, new concerns were brought to the attention of the Committee.
7. This paper is addressed to the Counsel General and Minister for European Transition.



## EU citizens<sup>1</sup> in Wales and the EU Settlement Scheme

### Background

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8. In relation to the EU Settlement Scheme (EUSS), a number of ongoing and new concerns were raised with the Committee. Ongoing concerns include:
- the digital-only nature of the Scheme; and
  - the need to offer specialised support to vulnerable groups.

New concerns include

- the impact of the COVID-19 pandemic; and
  - the need for continued engagement and support beyond the application deadline of 30 June 2021 with EU citizens with pre-settled status, who will need to complete a second application in order to stay in Wales in future.
9. We explore these concerns in further detail under the headings below.

### Communication

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10. We received evidence suggesting that communication around aspects of the Scheme needs to intensify in the run up to the application deadline, including awareness raising, particularly among vulnerable or missing groups and communication regarding the meaning of the status of EU citizens across public services, employers and landlords. Communications regarding the UK's new immigration rules to these audiences should also intensify.
11. We heard examples from focus group participants of positive messages sent to EU citizens from local authorities and devolved governments:

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Newport Council created a leaflet and sent it to European citizens around St Nicholas Day, which thanked them for choosing Newport as their home. It was extremely powerful. – *Focus group participant 1*

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<sup>1</sup> In this context, the reference to EU citizens refers to EU, EEA and Swiss citizens, with the exception of Irish citizens, to whom separate arrangements apply



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I always think about what Nicola Sturgeon did – she made it clear on the front page of their newspapers that EU citizens were welcome. I cried when I saw that and wish we had something similar here. I did however have a letter from the Welsh Government to say I would be able to vote in the Senedd elections, and I thought that was nice. – *One-to-one interviewee 2*

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## Non-applicants and late applicants

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- 12.** In correspondence to the Committee on 25 August 2020, the Counsel General and Minister for European Transition raised the risk of a “cliff edge” scenario of people becoming illegally resident overnight if they have not applied to the EUSS by the 30 June 2021 deadline. Evidence received by the Committee suggests that the ‘reasonable grounds’ put forward by the UK Government as a basis for late applications needs clarification.

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Just on the question of what more the Government can do now to particularly help people who are in vulnerable situations. I think, first of all, there needs to be some clarity over what constitutes reasonable grounds if the deadline is missed in June. At the moment, I think it's not totally clear. – *Marley Morris – Institute for Public Policy Research*

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- 13.** We welcome the support that the Welsh Government have provided through the EUSS Wales Co-ordination Group to date, and recognise its contribution to reaching EU citizens at risk of not applying to the EUSS before the deadline.

## Continued engagement and support for EU citizens with pre-settled status

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- 14.** Concerns were raised about the need for continued engagement and support with EU citizens granted pre-settled status (around **43% of total applications**), in particular in light of the COVID-19 pandemic. Marley Morris of the Institute for Public Policy Research explained that there is uncertainty around how easy it will be for people to convert their pre-settled status into settled status via a second application in future.
- 15.** Mr Morris explained that this could mean that EU citizens with pre-settled status could face challenges accessing benefits in the months ahead, as pre-settled status does not offer the same rights as settled status.
- 16.** Ambassador João Vale de Almeida raised similar concerns during the evidence he gave to the Committee on 25 January 2021:



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We understand that many citizens who have obtained pre-settled status temporarily left the UK to assist their families, or simply to try and escape the worst-hit locations of the pandemic in the UK. Although pre-settled status remains valid for two years, when a citizen is outside the UK, if a stay is longer than six months in any 12-month period, this will interrupt the continued UK residence of pre-settled status holders, so there is a risk that they are put in an unfavourable situation. Such interruption, even if the pre-settled status holders return to the UK within the two-year limit, will basically make it impossible to later reapply for settled status before their pre-settled status expires. ... This is because settled status requires five years of continuous, uninterrupted residence, which these citizens will not be able to satisfy. - *Ambassador João Vale de Almeida*

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**17.** The Ambassador acknowledged that the Home Office's grant funded scheme was helpful in providing funds to partner organisations, and called for the funding to be extended beyond the end of this financial year to the end of the grace period.

**18.** A focus group participant highlighted the need for continued support from both the UK and Welsh Governments:

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A lot of our funding will run out after the grace period. We know there'll be many challenges from 1 July onwards; people who've not applied, people who can't access their status or people who have been granted pre-settled status and have up to five years to convert that into settled status. Our concern is that funding will stop on 1 July, but the work won't. We need greater certainty now, so that we can plan ahead - *Focus group participant 2*

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## Digital-only nature of the EUSS

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**19.** Claire Thomas of the Bevan Foundation raised concerns about the digital-only nature of the EUSS, and the lack of physical documentation as proof of status, comparing the situation to the Windrush scandal.

**20.** This concern was echoed by a one-to-one interviewee, who told us that "*I can't help but think that 20 years from now, there'll be another Windrush type scenario, where we'll be told to go home.*"



**21.** We will be writing to the Minister for Future Borders and Immigration at the Home Office to draw this matter to his attention.

## Vulnerable groups

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**22.** The ongoing need to pay particular attention to vulnerable groups was raised with us as a crosscutting issue throughout the inquiry, including issues raised by the ceasing of physical engagement and face-to-face support as a result of the pandemic.

**23.** When considering the needs of vulnerable groups, Marley Morris of the Institute for Public Policy Research highlighted the needs of *“people who are victims of modern slavery, children in care, people who are homeless.”* He stated that there should be a *“clearer sense about who would be eligible for being able to apply after the deadline”*.

**24.** A focus group participant referred to difficulties experienced by vulnerable groups:

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When you consider those involved with social services, they're a hugely vulnerable and marginalised group that often require face-to-face support in normal circumstances. It's not just about digital accessibility, but issues of capacity to make the application. – *Focus group participant 3*

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## New UK immigration system

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**25.** As the introduction of the UK's new immigration system has taken place since the publication of our original report, we took evidence to consider the implementation of the new system from a Welsh perspective.

**26.** We heard evidence from Professor Jonathan Portes that the system is an improvement for Wales on the system originally proposed under Theresa May's Government, and which we considered during our original inquiry.

**27.** However, Professor Portes went on to state that risks remained, including in relation to the social care sector due to its dependence on EU migrant labour, and sectors that tend to attract salaries below the new, lower salary threshold of £25,600, such as manufacturing and food processing.





**28.** Marley Morris told us that *“the salary threshold reduction may help some sectors to adapt, but the skills threshold is probably the main thing that makes it hard for employers to recruit from the EU in the future”*.

Mr Morris went on to highlight the additional costs that employers will face when recruiting from overseas, including the immigration skills charge and additional licencing fees.

## Recommendations

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**Recommendation 1.** Due to the on-going concerns surrounding this issue, we repeat the recommendation from our original report: that the Welsh Government reiterates its message of support to EU citizens in Wales. We recommend that the Welsh Government continues its efforts to reach EU citizens and partner organisations to raise awareness of the EUSS and the need to apply before the 30 June 2021 application deadline.

**Recommendation 2.** We recommend that the Welsh Government extends its support, either through the existing EUSS Wales Co-Ordination Group or by other means, beyond the 30 June 2021 deadline, in particular to take account of people whose circumstances have changed due to the COVID-19 pandemic and vulnerable groups who may have missed the deadline due to difficulties in their circumstances.

**Recommendation 3.** We recommend that the Welsh Government makes every effort to support EU citizens to navigate the digital application process in the absence of face-to-face support, and that it takes particular account of the needs of vulnerable groups in doing so.

**Recommendation 4.** We recommend that Welsh Government make every effort to use existing channels to provide support to Welsh employers to enable them to navigate the new immigration system, including the new health care visa, the immigration skills charge and the additional licence fee.

