

Minister for Social Justice and Chief Whip

24 November 2023

Dear Jane,

EU Settlement Scheme (EUSS) in Wales

Following the Committee's consideration of the latest EUSS statistics and EUSS Coordination Group meeting minutes on 6 November 2023, we would welcome an update in the following areas:

1. Recent developments at the Independent Monitoring Authority (IMA)

I note that Miranda Biddle was appointed as the IMA's new Chief Executive in June 2023. The IMA laid its second annual report in the Senedd on 29 June 2023. It includes a Wales-specific looked after children and care leavers report which reviews the support provided by all Wales's local authorities and health and social care services in making EUSS applications. This was part of a UK-wide IMA review into support provided by local government. The report details a number of the IMA's concerns, including a lack of:

- documented processes and written operational guidelines;
- accurate record keeping and data capture and storage;
- references to the identification of non-EU and EEA EFTA family members of EU and EEA EFTA citizens; and
- the use of ethnicity as opposed to nationality to identify citizen eligibility.

As a result, the IMA said it was considering opening individual compliance investigations.

The Welsh Government's EU Coordination Group meeting minutes for June 2023 record an update provided by the IMA at the meeting, which states that 21 of 22 local authorities had assurance cases open and that the IMA was in the process of regrading the local authorities. The update also noted that data recording had improved.

The Committee would like you to:

- a) set out the Welsh Government's response to the IMA's findings.
- b) provide a status update on the IMA's assurance cases of local authorities in Wales, including whether any cases that remain open and the role and involvement of the Welsh Government, if any, in these.

2. Latest quarterly statistics and the outcome of system errors

In May 2023, it emerged that the digital status of some European citizens had not been updated to show a refusal decision. Around 141,000 European citizens in receipt of benefits and NHS treatment while awaiting the outcome of their application were required by the UK Government to pay back the amounts for treatment received. The digital status of those affected had continued to show as 'pending' despite them having received a refusal decision between 27 June 2021 – 19 April 2022. The Welsh Government's EUSS Coordination Group

meeting minutes from June 2023 record that “only a small number” of citizens in Wales would need to pay back the amounts for treatment received.

The Committee would like you to tell us:

- a) how many European citizens are affected by the system error in Wales, who have been in receipt of services paid for by the Welsh Government.
- b) whether the Welsh Government has quantified the amounts involved.
- c) whether the Welsh Government will request costs from devolved budgets, such as health services, to be paid back.

3. Pre-settled citizens

On 21 December 2022, the High Court ruled that the requirement for pre-settled status holders to make a second application to convert to settled status is unlawful.

In March 2023, you told this Committee that you welcomed the UK Government’s decision not to appeal the High Court’s decision. You explained how the Welsh Government:

- continues to reach out to the UK Government for further clarity on what the ruling means; and
- called for the UK Government to involve all devolved governments in any decision making or further policy developments in this area.

Changes to the EUSS scheme were announced by the Home Office on 17 July 2023. The changes mean that pre-settled citizens:

- will automatically have their status extended by 2 years from September 2023; and
- will be automatically upgraded to settled status, starting from 2024.

The EUSS Coordination Group meeting minutes from September 2023 record that the Welsh Government had requested that future statistical updates published by the Home Office would show breakdowns of those who have been automatically upgraded and those who applied to be upgraded following the changes to the EUSS as a result of the High Court’s ruling. The minutes show that the request was being considered and that officials would respond in due course.

The Committee would like you to confirm:

- a) the Welsh Government’s response to the changes for pre-settled status holders announced by the UK Government as a result of the High Court ruling.
- b) whether the UK Government has provided the clarity and involved the devolved governments fully, as requested by the Welsh Government.
- c) whether the UK Government has responded to the Welsh Government’s request, that statistical breakdowns be provided of automatic status upgrades and those who applied to upgrade from pre-settled to settled status.

At our meeting, the Committee considered the responses of the [Migration Observatory](#) and [UK in a Changing Europe](#) to the changes described above, who identify new uncertainties for pre-settled status holders and vulnerable citizens.

The Committee would welcome the Welsh Government's views on the concerns raised by the Migration Observatory and UK in a Changing Europe in relation to the impact on vulnerable groups.

4. Late applications

The number of late applications from Wales reached 16,210 at the end of June 2023. Statistics show that there have been between 620-800 late applications each month in 2023.

The Migration Observatory has noted that "late applications have not declined over time and remained at more than 15,000 per month throughout 2022 and 2023" UK-wide. It also notes that, UK-wide, "the refusal rate for applications has increased sharply over time, from below 3% of all decisions in early 2021 to 37% by June 2023".

The UK Government announced further changes to the EUSS for late applications in August and October 2023, so that:

- reasonable grounds are now considered a validity requirement instead of an eligibility requirement.
- the right to an administrative review of refused or cancelled EUSS decisions made on or after 5 October 2023 has been removed.

The June 2023 meeting minutes of the Welsh Government's EUSS Coordination Group record that organisations were busier than previously with limited resources and that there is still a high level of complex cases ongoing.

The Committee would like you to confirm:

- a) The Welsh Government's response to the changes made in relation to late applications, including to reasonable grounds criteria and the removal of the right of administrative review.
- b) The Welsh Government's view on late applications from Wales, which have remained steady at between 600-800 per month in 2023.
- c) Whether the Welsh Government is aware of specific challenges for late applicants in Wales, including changes over time to the types and complexity of cases being handled by funded organisations.
- d) Whether the Welsh Government and funded organisations are experiencing the same trends as are being documented UK-wide, in relation to increases in refusal rates and decision delays.
- e) Whether the Welsh Government has any Wales-specific statistics on these matters that it can share with the Committee.
- f) An update on intergovernmental discussions on these issues.

5. No applications

On 8 August 2023, two EUSS routes closed to new applications:

- EUSS Family Permit: applicable to family members of a qualifying British citizen (known as 'Surinder Singh' cases); and
- Zambrano 'right to reside': applicable to primary carers of a British citizen

The Committee would like you to:

- a) Confirm the Welsh Government's view on the closure of EUSS Family Permits and Zambrano routes.

b) Provide an update on intergovernmental discussions on these issues.

6. Welsh Government Support

The Committee considered the latest available information on the support provided to EUSS applicants by the Welsh Government, including from your written statement in March 2023, and correspondence to the Committee in June 2023.

The Committee would like you to:

- a) Confirm whether support plans have changed in light of the changes made by the UK Government, and if so, how.
- b) Provide an update on the support available and associated timescales.
- c) Clarify whether the EUSS support provided by Newfields has been limited to support the health and social care sector with overseas recruitment only, or whether this is additional to its services provided previously.
- d) Confirm whether the Welsh Government and funded organisations have statistics available on the number of citizens accessing EUSS advice and support services.
- e) Provide an update on EUSS-related Roma community support, including whether the Welsh Government has intelligence of how many individuals may still need support.
- f) Clarify potential gaps in Roma community support, which you have said ran up to 31 July 2023 but could restart in 2024.

7. Ukrainian applicants

Finally, in respect of Ukrainian applicants the Committee would like you to:

- a) Provide an update on the number of Ukrainian applicants with an address in Wales, as previously obtained from the UK Government on request.
- b) Confirm whether the Welsh Government or members of its EUSS Coordination Group are aware of any specific issues arising for Ukrainian citizens, in particular since the closure of the Family Permit route.

Many thanks for the sharing of the Minutes to the Committee. They have been a most useful resource and the Committee looks forward to receiving further updates in due course.

The Committee would appreciate a response to this letter by 15 December 2023.

Yours sincerely,



Jenny Rathbone MS

Chair, Equality and Social Justice Committee
Welsh Parliament

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.