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Dear John,

During the Second Reading on the EEA Nationals (Indefinite Leave to Remain) Bill on Friday 19 July, you asked why clause 2(1)(f) of the Bill does not provide protection for those EEA nationals who are not exercising Treaty rights in the UK.

The focus of clause 2(1) of the Bill is on categories of person who are exercising Treaty rights in the UK. As I said in the debate, this could take many thousands of people out of the scope of protection, including those who are not economically active or self-sufficient and many vulnerable people who may not be exercising their Treaty rights here.

I agree that clause 2(1)(f) of the Bill could be used to extend the right of abode conferred by the Bill by statutory instrument, subject to the affirmative procedure, to categories of person not already specified in clause 2(1), including potentially EEA nationals not exercising Treaty rights in the UK. However, that would be a very complex and convoluted way of seeking to deliver the scope of protection which the Government is already delivering through the EU Settlement Scheme, under which eligibility for EEA nationals is simply based on their residence in the UK.

It would risk not doing so as completely or as clearly as the Immigration Rules for the EU Settlement Scheme and could lead to some EEA nationals and their family members not being included or to confusion as to whether people were in scope of the protection afforded by the Bill or not.

By contrast, the EU Settlement Scheme, as set out in Appendix EU to the Immigration Rules, already provides clear reassurance to all EEA nationals living in the UK that they will be eligible for status, as will their family members, based simply on their residence in the UK. Five years' continuous residence will mean that they will be eligible for settled status (indefinite leave to remain); otherwise, they will generally be eligible for pre-settled status (five years' limited leave to remain), allowing them to accrue five years' continuous residence and then apply for settled status.

Coupled with its simple, streamlined application process (under which more than 950,000 applications have been received and more than 850,000 people granted status), the Government considers that the EU Settlement Scheme provides the clarity and certainty which EEA nationals resident here require.

I hope this letter addresses the point you raised. I will also place a copy of this letter in the House library.

With very best wishes
Diana

BARONESS BARRAN

Earl Attlee
House of Lords