



Katie Lam MP
House of Commons
London
SW1A 0AA
katie.lam.mp@parliament.uk

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Dear Katie Lam MP,

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL – COMMONS COMMITTEE STAGE – DAY 4

On 13 March, on Commons Committee Stage Day 4 of the Bill, we debated Government New Clause 31 on EU citizens' rights, which provides that all EU citizens and their family members with status under the EU Settlement Scheme (EUSS) have equal rights in the UK.

During the debate, I explained the new clause will mean that all EU citizens resident in the UK before the end of the post-EU exit transition period at 11pm on 31 December 2020, and their family members, with status under the EUSS will be considered a beneficiary of the Withdrawal Agreement (WA) and can rely directly on the rights in Title 2 of Part 2 of the WA. I explained that this is irrespective of whether they were technically residing in the UK in accordance with EU law at the end of 2020 – e.g. as a worker or self-sufficient person – and are thereby in the 'true cohort' of WA beneficiaries, or were simply continuously resident in the UK then and are therefore in what I referred to as the 'extra cohort'.

In your intervention, you asked (Column 263) for our best estimate of the numbers in this 'extra cohort' of EUSS status holders. As I mentioned, the EUSS does not differentiate between the 'true' and 'extra' cohorts and so we do not hold data on the numbers in the 'extra cohort'. However, of the 5.7 million people who have been granted EUSS status – from the 8.4 million applications received and 8.2 million concluded to 31 December 2024 – around 4.1 million have settled status and 1.7 million have pre-settled EUSS status.¹ The great majority of these will be EU citizens in the 'true cohort'.

We know that the great majority of EU citizens resident in the UK at the end of 2020 were economically active or self-sufficient. For example, the Labour Force Survey for the period² indicates that around 80% of EU citizens here aged 16-64 were in work at the end of 2020 and were therefore residing in accordance with EU law as part of the 'true cohort'. The 'extra cohort' will therefore be only a very small proportion of those holding pre-settled or settled status under the EUSS.

¹ [How many people have been granted settlement via the EU Settlement Scheme? - GOV.UK](https://www.gov.uk/government/statistics/how-many-people-have-been-granted-settlement-via-the-eu-settlement-scheme)

²

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/a12employmentunemploymentandeconomicinactivitybynationalityandcountryofbirth>

In addition, as I mentioned during the debate, the UK has always sought, as a matter of policy, to treat both cohorts the same. As the new clause is giving legal effect to that policy, we expect impacts and numbers affected to be limited.

Those with settled status (indefinite leave to enter or remain) under the EUSS, whether they are in the 'true' or 'extra' cohort, already have full access to benefits, where eligible, like the holder of such leave under any UK immigration route.

It may be helpful to reiterate the point I made in Committee that to access income-related benefits, such as Universal Credit, those with pre-settled status (limited leave to enter or remain) under the EUSS, again whether they are in the 'true' or 'extra' cohort, will still be required to evidence relevant qualifying activity, such as current or recent employment or self-employment.

Only where a person with pre-settled status – and in the 'extra' rather than 'true' cohort – is unable to work and is in, or at imminent risk of, destitution will the new clause mean that the provision of support is required where it has not been previously. This reflects one of the developments in caselaw since the end of the transition period to which I referred (a UK court judgment called *AT*), which now means that it is appropriate, by means of the new clause, to confirm the equal treatment of the 'true' and 'extra' cohorts in UK law.

Thank you for your contribution to the debate.

I am copying this letter to other members of the Bill Committee, and a copy will be placed in the House of Commons Library.

Yours sincerely,



Seema Malhotra MP
Minister for Migration & Citizenship