



Looked After Children and the EU Settlement Scheme

An update for local authorities

**The
Children's
Society**

Executive Summary



The UK has now left the EU and the Brexit transition period has ended. Only a few months remain for those EU, EEA or Swiss nationals¹ (or their family members) who were in the UK by 31 December 2020 to apply to the EU Settlement Scheme (EUSS).

Previously, with free movement, EU nationals could visit or live in the UK without needing a visa. All this has changed. EU nationals already living in the UK must now take the proactive step of applying to the EUSS and securing either pre-settled (if they have been in the UK for less than 5 years) or settled status. This includes children.

Unfortunately many children - particularly those who are vulnerable - may now unknowingly find themselves living in the UK unlawfully, having failed to apply or to have an application made on their behalf to the EUSS.² The situation is avoidable with a greater awareness of who must apply and identification, alongside ensuring applications are made by 30 June and status is secured.

Yet to secure status: looked after children and care leavers

The Children's Society has since the introduction of the EUSS raised concerns that many EU national children or the children of EU nationals will find themselves without status come 1 July 2021. We have focused particularly upon looked after children and care leavers, as many may not be able to depend upon their parents to apply on their behalf or will be reliant upon a local authority to do so. These children, many of whom have called the UK home their entire lives and endured difficult life circumstances, will now face the real possibility of a very insecure future.

In January 2020, The Children's Society sent FOI requests to all local government bodies in the UK³ to understand the number of children in their care or eligible for care leaving support who would need to apply to the EUSS; how many had done so; and the number who had secured status. We have repeated this exercise to understand the progress which

¹ 'EU nationals' will be used hereafter to refer to all three categories.

² Assuming they are not British and have secured their British citizenship. If a child may be British, legal advice should be sought to ensure the course of action (either EUSS or citizenship application) that is in the best interest of the child is taken.

³ We use the term 'local authority' throughout this briefing though we note it will be Health and Social Care trusts responsible in Northern Ireland.

has been made and the gaps which remain as of early 2021.⁴ In the intervening months, the Home Office also surveyed local authorities and released the results of its data pull.

Alarmingly, our research shows that less than 40% of the looked after children and care leavers identified as needing to secure status have in fact made applications to the EUSS. The Home Office's survey also highlighted that more than 50% of identified looked after children and care leavers still need to apply.⁵ Yet instead of making the process simpler for these children to ensure they do not become undocumented, the Home Office have confirmed that anyone who has not applied by the deadline will have no lawful status in the UK as of 1 July. To ensure the best interests and welfare of these looked after children and care leavers, local authorities must without fail increase the number of applications being made before the EUSS deadline.

But these are only the looked after children and young people *who have been identified*. What is also clear is that there are still others yet to be even identified who will need to apply.

Lack of oversight and identification

The responses we received from local authorities raised serious concerns of the confidence we could have in the numbers to provide a full picture of EUSS eligibility across the country – some local authorities dropped their figures by hundreds when queried, others identified a doubtfully low number of eligible children in light of their demographics, while others identified significantly more applications made than eligible children and young people. This inconsistency suggests a lack of understanding as well as oversight. In our prior report⁶, we emphasized that proper oversight of the identification and application process was wanting and offered recommendations. The most recent FOI responses reveal these problems still persist. Local authorities, scrutiny committees and corporate parenting panels must continue working to ensure all eligible children and young people have been identified and their applications have been made.

Repeating our FOI exercise has also underscored how such a survey cannot be used as the only metric to measure the success of the EUSS registration exercise and be confident that all children in the state's care have secured their status. The Home Office has framed the results of its survey as the 'actual numbers'. Yet our responses identified almost 400

⁴ We repeated our FOI exercise in early September 2020, with responses collated between September 2020 and February 2021. The final pieces of data included were received by 4 February 2021.

⁵ See Key Finding No. 4, Home Office Looked After Children and Care Leavers Survey, 2020, <https://www.gov.uk/government/publications/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020>

⁶ [Looked After Children and the EU Settlement Scheme: A guide for local authorities](#)

more looked after children and care leavers as eligible. Each represents a child whose life could be severely impacted if they are left behind by the EUSS. The Home Office needs to do a great deal more work with local government to ensure each and every eligible child and young person has been identified and secured status.

Impacts on young people

To fail to apply for one eligible child could mean their suddenly, through no fault of their own, being cut off from essential services and support as of 1 July 2021. They will lose the right to work, rent, hold a bank account or a driving license. Any period of unlawful residence will have serious impacts on any future application for citizenship and if a young person has ambitions to attend university, impact their eligibility for student finance. They could also face deportation from the UK. Even a child who applies late will have a period of unlawful status in the UK – from 1 July 2021 until such time as they have affirmatively secured status.

Key Action Points & Policy Recommendations

To avoid these outcomes much needs to be done in the few months remaining until the EUSS deadline to ensure all eligible looked after children and care leavers are identified, applications are made and their status is secured. Last year, The Children's Society and others supported efforts in Parliament to streamline the EUSS process for children in care and care leavers.⁷ Unfortunately, the Government did not support the measures suggested. While we still feel the Home Office could do more, the burden of action has been placed on local authorities.

Local authorities must now leverage all available support (including assistance from organisations funded to assist with EUSS applications) to ensure these vulnerable children are identified and secure the status to which they are entitled. These applications (particularly now during coronavirus restrictions) take time, and time is running out.

For the reasons set out above, The Children's Society calls on **Local Authorities** to:

- **Recognise the corporate responsibility for ensuring no looked after child or care leaver finds themselves without lawful status in the UK after 30 June 2021.** Local authorities, scrutiny committees and corporate parenting panels have a vital role to play to ensure that no child or vulnerable young person is left behind by the EUSS.

⁷ See "Government suffers Lords defeats over immigration bill," 5 October 2020, <https://www.bbc.co.uk/news/uk-politics-54427322>.

Effective monitoring and tracking are key to ensuring that local authorities are acting in the best interests of all looked after children and care leavers in their area.

- **Continue to work identifying children in care or entitled to care leaving support who must secure status under the EUSS.** Local authorities need to have an accurate picture of how many children need to apply to the scheme. For children and young people who may be able to claim or register as British, legal advice must be sought to ensure their best interests are upheld.
- **Ensure looked after children and care leavers who have been identified as needing to secure status under the EUSS have applied by 30 June 2021.** After this date, these children and young people will be unlawfully in the UK which will have devastating impacts on their future and well-being.

We call on the **Home Office and Department for Education** to:

- **Support and resource local government bodies to continue identifying children and young people in their care who must secure status through the EUSS, ensure they have applied before the deadline and secure status.** Overseeing the EUSS and aware of the problems which exist for this cohort, Government must work with local government to ensure no child is left behind. Additional resources must be provided to already-stretched local authorities to ensure they can undertake these pressing tasks expeditiously.
- **In light of the impacts of the coronavirus restrictions, the Government must extend the EUSS deadline beyond June 2021, alongside continued outreach, support and monitoring.** Restrictions have led to the closure of frontline services, embassy offices, Home Office provision and local ID services, causing significant delays for those seeking to apply.
- **The Home Office need to commit to accepting all out of time applications by looked after children and care leavers, whether they are under or over 18 at the time of the EUSS deadline, and protect their immigration status despite any out of time applications.** Aware that there are many in this cohort who will still need to have applications made after 30 June, the Home Office must ensure they are not detrimentally impacted and protect their lawful status until such time as a late application has been made and they have secured EUSS status.
- **To avoid the risk created by pre-settled status, the Home Office should issue settled status to looked after children and care leavers.** It is only right that these

children and young people are granted a permanent status so they do not face yet another cliff edge in the future and the risk of losing status at that time.

- **Physical documentation of status should be issued to looked after children and care leavers.** Recognising their reliance on a corporate parent and constantly changing personnel, physical documentation will ensure their status and its accessibility are not wholly dependent on local authority record keeping.

Most Recent FOI exercise

In September 2020, we sent an FOI request to 210 local government bodies in the UK with the responsibility for children's services (205 local authorities in England, Wales and Scotland, and 5 Health and Social Care Trusts in Northern Ireland) seeking to understand the number of children in their care or entitled to care leaving support identified as needing to apply to the EUSS, the number of applications made and the number granted status since the commencement of the EUSS.⁸ As of 4 February 2021, 175 local authorities were able to provide information. The outstanding 35 local authorities either did not respond or were unable to answer the FOI (specifically, 14 did not provide a response in time; 21 were unable to provide the data or did not hold the information in a reportable format). Based on the information provided in all the 175 responses⁹:

3,690 looked after children and care leavers have been identified, including a minimum of 1,842 for whom the state has parental responsibility

1,426 EUSS applications have been submitted for looked after children and care leavers

1027 have secured status through the EUSS (838 settled, 189 pre-settled)

However, some local authorities did not provide complete responses - for example identifying the number of applications submitted but not the number of eligible looked after children or care leavers. We have therefore focused upon the responses of the 156 local authorities who provided data for each question to draw conclusions from the resulting tallies.

These 156 local authorities positively identified 3543 looked after children and care leavers as eligible to apply to the EUSS. This figure includes a minimum of 1781 children for whom the state is the corporate parent. For these 3543 identified children, there have only been 1370 applications to the EUSS, meaning only 39% of the identified children and young

⁸ Our previous report [Looked After Children and the EU Settlement Scheme: A guide for local authorities](#) outlines the results as of January 2020, reflecting the first time we undertook this same FOI request exercise

⁹ Several local authorities gave responses in ranges, as low numbers meant there was a fear individuals could be identified by the data. For the statistics provided within this briefing, we took the mid-point of the range for our calculations.

people have submitted applications to the EUSS. Of those who have applied, 1007 have secured status (819 settled, 188 pre-settled). This means only 28% of the looked after children and care leavers identified by the 156 local authorities in response to our recent FOI have secured status to remain lawfully in the UK.

Key Findings



(1) More than 50% of identified children have yet to apply

While we originally found only 730 applications had been made to the EUSS¹⁰, encouragingly this figure has almost doubled over the past year to 1426 applications. Yet far more applications still need to be made.

According to our research, only 39% of the children and young people known to local authorities as needing to secure their status through the EUSS have in fact applied.¹¹ The Home Office likewise found that less than 50% (specifically 46%) of identified, eligible children have applied.¹²

In both cases, the data reveals that more than 50% of eligible looked after children and care leavers who have been positively identified, have yet to submit an application through the EUSS – equating to almost 2000 applications – with fewer than 6 months remaining to the 30 June deadline.

To fail to apply for one such child or young person puts them at risk of losing lawful residence in the UK, cutting off access to vital services. A young person would find themselves, essentially overnight, with many of their rights gone – they would be unable to access benefits, health services, student finance, work or to open a bank account, and would be at increased risk of being detained and possibly removed from the UK.

(2) Fewer than 30% of identified eligible children and care leavers have secured status

Very worryingly, our data also reveals that little over a quarter (28%) of all identified eligible children in care and care leavers have secured status under the EUSS. The Home Office's

¹⁰ 730 applications for the 3612 children identified; see [Looked After Children and the EU Settlement Scheme: A guide for local authorities](#).

¹¹ As previously set out, some children and young people will be able to claim or register as British. Our research found 259 applications for British citizenship had been made for this cohort. Applications have been made in conjunction with EUSS applications or separately.

¹² 1520 applications for 3300 children; see <https://www.gov.uk/government/publications/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020>.

own survey highlights that only 25% of identified children where the local authority has parental responsibility have secured status. The best interests of the child are clearly not being met when almost 75% of children in the care of the state, who we know need to secure status under the EUSS, have yet to secure this status two years after the start of the EUSS and with only a few months remaining.

(3) Based on the lack of consistent data, it is doubtful all eligible children and care leavers have been identified.

The responses to our FOIs and the results of the Home Office survey underscore how doubtful it is that all eligible EU national and family member children in care or care leavers have been identified. This is particularly true of third country nationals who are family members of an EU national and may not outright present as eligible.

The Home Office originally estimated 9000 children in care and care leavers would need to apply to the EUSS, based on Office for National Statistics (ONS) estimates of EEA citizens as a proportion of the resident population and on government data of the volumes of children in care and care leavers in each local authority. Their recent survey of local authorities identified 3300 eligible children which they have now suggested are 'the actual numbers of looked after children and care leavers eligible for status under the EUSS'.¹³ Per their explanation, these numbers are based on a 99% response rate, totaling 207 local authorities (with each providing a substantive response).

While the actual figure of looked after children and care leavers needing to apply may in fact be less than the 9000 initially estimated by the Home Office, it is important to bear in mind that the Home Office originally estimated 3 million EU nationals would need to regularise their status as we left the EU, yet 5.18 million EUSS applications¹⁴ have already been made. This highlights, once again, the issues of identification and the inconsistencies in the data available on this cohort.

In response to our most recent FOI, 175 local authorities identified 3690 eligible children – almost 400 more children than identified in the Home Office survey.¹⁵

And we recognise that our 3690 figure is likely an underestimate as:

- (1) 35 local authorities did not respond or were unable to answer the FOI; and

¹³ See <https://www.gov.uk/government/publications/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020>.

¹⁴ See <https://www.gov.uk/government/collections/eu-settlement-scheme-statistics>.

¹⁵ We expected fewer children to be identified in our survey due the wording of the question asked. Our survey asked for the number of identified non-British EU, EEA or Swiss national children, whereas the Home Office survey requested the total number of children 'identified eligible to apply for EUSS' which would include third country nationals.

- (2) At least 7 local authorities did not identify the number of eligible children but did provide data regarding application numbers or grants of status.

The difference in the number of children and young people identified by our collection (3690) and the Home Office survey (3300) highlights the difficulty of the identification process and that this process must be ongoing, as there still may be many yet to be identified. A disparity of 400 children is worrying given that each represents a child or young person facing uncertainty and insecurity. The inconsistency also suggests a potential lack of understanding, oversight or resource within local authorities, which will have significant consequences for the children and young people left unidentified, and shortly without status.

Repeating our FOI has highlighted the difficulty of the identification exercise for local authorities, who are facing multiple pressures. For a handful of local authorities there was a marked change in the numbers they identified. In our most recent FOI, two local authorities initially provided figures which were significantly more than they had in response to the prior FOI. In turn, three other local authorities provided figures which were significantly lower. It may be that these differences are the result of the changes the local authorities have made in how they are recording who is or is not eligible within their care. If these differences reflect a concerted effort by local authorities to accurately account for each child who must secure status under the EUSS, it is an encouraging sign. But the differences raise a concern that local authorities do not fully understand all who are eligible and must apply, or hold sufficient records of this information. Across our FOI requests, there were 28 local authorities who on both occasions failed to respond or stated they did not hold the information in a reportable format.

We therefore urge local authorities to continue learning about the various categories of children (including third country nationals) who must apply to the EUSS and engaging with the issue, to ensure there is a formal process in place to make such identifications and to continue the work of identifying those children who need to secure their status through the EUSS, before they become undocumented on 1 July 2021.

Critical Next Steps for Local Authorities and Health and Social Care Trusts

(1) Continue identifying eligible looked after children and care leavers

It is clear there must be ongoing efforts to identify looked after children and care leavers who, in their best interest, must secure their status under the EUSS now the UK has left the EU. This must be done proactively by local authorities as most children and young people will not be aware of their need to apply, because they:

- Were born in the UK but are not British (and may not realise it)¹⁶;
- Assume, because they are in care, that their local authority, carer or social worker will handle it completely on their behalf;
- Assume that as a child they do not need to act, or that it does not affect them;
- Feel scared or overwhelmed, or too frightened to ask for support;
- Are not an EU national and therefore not an immediately identifiable candidate for the EUSS, but may be able to apply because they are the family member of an EU national.

Local authorities must gain a better understanding and be well aware of the children who are relevant and eligible. These children and young people include EU, EEA or Swiss nationals – note nationality refers to country of citizenship, not necessarily country of birth or origin – or the children of EU, EEA or Swiss nationals.

In responding to The Children's Society FOI, several local authorities identified a small number of EUSS eligible children and then caveated the large number of children for whom they had no nationality information. As pragmatically set out by Greater Manchester Immigration Aid Unit (GMIAU) in its "Guidance to Children's Services and Leaving Care Teams on Brexit Immigration Changes,"¹⁷ it is not enough to solely rely upon data contained in departmental databases to identify all relevant and eligible children and young

¹⁶ Where British citizenship is in question, legal advice must be sought to ensure the child's best interests are upheld as nationality law is complex.

¹⁷ See guidance linked under section entitled, 'Brexit and Immigration Changes', <https://gmiau.org/speaking-out/children/>.

people; the following details, which should be contained in Care/Pathway Plans, should also be reviewed:

- Name
- Date of Birth
- Nationality
- Current and previous addresses in UK
- When and how did the young person enter the UK
- What is their current/previous immigration status
- Details of their parents, including names, dates of birth, nationalities, current whereabouts, immigration status in UK, contact details.

In addition, it will be important to locate and try to secure any current or expired passports, national ID cards, visas or residence permits, and the child's birth certificate.

The local authority does not need to be an expert on the EUSS, but simply aware of the categories of children who may be relevant for the EUSS and work to identify those children in its care or entitled to leaving care support who may be relevant. The Home Office has funded organisations and law centres specifically to assist with the EUSS and applications to the scheme. These organisations will be able to assist you in identifying whether a child is eligible and should apply to the EUSS. A list of these grant funded organisations is available at: <https://www.gov.uk/government/publications/eu-settlement-scheme-community-support-for-vulnerable-citizens/list-of-organisations>¹⁸, and includes law centres, The Children's Society, Coram Children's Legal Centre, the AIRE Centre, and Here for Good.

Legal advice should also be sought as immigration and nationality law is complex. This is particularly true where a child may have a right to British citizenship by birth or may be able to register for British citizenship to ensure the correct course of action is taken in the best interest of the child. Legal aid is available for immigration and nationality matters for all separated children, including looked after children.

Good Practice: Leicester City Council

EUSS applications for Looked After Children and Care Leavers are monitored corporately by Leicester City Council through an Immigration, Asylum and Resettlement Meeting Group chaired by the Chief Operating Officer, thus reinforcing the LA Corporate Parenting responsibility.

A whole system approach has been applied to the identification of children and young

¹⁸ A listing searchable by postcode is available at: <https://www.gov.uk/help-eu-settlement-scheme>.

people who are potentially eligible for EUSS status, to include children in need and children and families identified through the duty and advice referral system. Advice on the EUSS is provided to parents and carers where their nationality indicates that they are eligible to apply.

The LA undertook a review of all looked after children and care leavers recorded nationality on the childcare database to identify that their nationality status was correctly recorded in order to identify the numbers of children eligible for EU settlement.

Following the identification of eligible children and young people, individual social workers and Personal Advisors are contacted to raise awareness of the child's status and offered advice on the EUSS application process.

(2) Make applications expeditiously

Covid-19 has brought unprecedented times and local authorities are stretched as they have never been. Securing the status of these children and young people in our care is, however, a task that cannot wait. With the deadline fast approaching on 30 June 2021 and more than 50% of identified, eligible looked after children and care leavers still needing to apply, local authorities must commit resource, time and priority to ensure their EUSS applications are made swiftly.

EUSS-specific Home Office guidance¹⁹ sets out the responsibilities of local authorities with respect of eligible children in care and care leavers:

- a) Children in care with a care order, interim care order or placement order: Local authorities should ensure an application is made, either making the application on behalf of the child or, if more appropriate due to the age and maturity of the child, supporting them to make their own application.²⁰
- b) Accommodated children: Local authorities must ensure the child and those with parental responsibility are aware of the need and import of applying, signposted to the scheme and offered practical support.
- c) Care leavers: Local authorities should identify eligible care leavers and support them

¹⁹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918663/looked-after-children-EUSS.pdf

²⁰ OISC has waived the need for advice and services to be regulated by OISC or another designated qualifying regulator when there is a care order giving a local authority or health and social care trust parental responsibility and the authority or trust is seeking to advise and act on behalf of the child with respect to an application to the EUSS (meaning the social worker can make an application to the EUSS on behalf of an eligible child). See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918663/looked-after-children-EUSS.pdf, p. 16.

to ensure an application is made for them to the EUSS.

We would recommend Local Authorities take an active role, where possible, to secure the stability of these vulnerable children and young people. Local authorities are uniquely placed to support children and families who are within the care system as well as care leavers, many of whom will need proactive and technical support to be able to make an application to the EUSS. Local authorities should work to connect eligible looked after children and care leavers with specialist legal advisers, and support them in working with the legal adviser to make an application as well as following up on its progress.

Good Practice: Manchester City Council

To ensure eligible children and young people would be identified, a series of awareness raising sessions were held with staff, district safeguarding leads, newly qualified social workers, staff within schools, and health professionals, such as in children centres. The aim was to ensure those professionals in direct contact with children, young people and families understand the EUSS, what it requires, and the consequences if a child is left without status.

In their experience, they recommend designating a senior practitioner to drive the EUSS work. This practitioner's case load is reduced so they have the capacity and time to ensure the relevant children and young people are identified, their evidence is secured (including chasing embassies), and complete the necessary applications or seek further legal support to do so. Having this designated lead, who is not the child's social worker and can independently stress the importance of the EUSS, often helps engage the young person or family and secure the necessary documentation.

To monitor progress, weekly meetings are held between the team lead and this designated person to review the children and care leavers at issue, track the progress of applications, and monitor decisions from the Home Office to ensure status has been secured. This also allows the team to account for applications which are deemed void in instances where a child has secured British citizenship or to follow-up where status is refused on grounds of suitability.

Aware of the particular vulnerabilities of these children and young people, and also the statutory responsibilities of local authorities and health and social care trusts for this cohort, the Home Office has allocated specific resources to help local authorities and trusts make or support these children in making applications to the EUSS. The Home Office has also issued guidance and statements which may expedite the application process and improve the chances of a child securing status in a timely manner. These resources and measures are set out in Appendix 1.

Much clearly remains to be done in the fewer than 6 months left to ensure all eligible looked after children and care leavers are identified, applications are made and their status is

secured. The Home Office has recently provided assurance that where a person has reasonable grounds for not having applied by 30 June 2021 – including a parent or local authority having failed to apply on their behalf – they may be given further opportunity to apply.²¹ *Applying late must, however, be the exception, not the rule.* Details of how applying late will actually work and what support, if any, will be available in the future to provide assistance are still unknown.

But far more importantly, the Home Office has again confirmed that a person who applies late will not have lawful status in the UK after 30 June 2021 until such time as they have secured status.²² Any late applicant will face the ramifications and be liable for being here unlawfully.

So any looked after child or care leaver who applies late will have no lawful status in the UK as of 30 June 2021 until such time as they have submitted a late application and affirmatively secured status. They will risk losing access to services, will lose the right to work, rent, hold a bank account or a driving license, and would be liable to removal from the UK. Any period of unlawful residence will have serious impacts on an application for citizenship and if a young person has ambitions to attend university, the student finance residency requirements will mean even a short period of unlawful residence before the age of 18 could significantly delay their ability to continue their education.

For the more than 50% of identified looked after children and care leavers still needing to apply, applying late is not the answer. Even a short period of unlawful residence in the UK will be hugely detrimental to their lives and to their futures.

(3) Follow-up

(a) Tracking progress and receipt of status

Local authorities must track the progress of applications to ensure they are completed, submitted and status is secured. While the Home Office has not indicated how long it takes to process the applications of looked after children and care leavers²³, they have emphasized the complexity of many of these cases. Local authorities must therefore bear in mind the time it may take before a child is in receipt of status and that they may need to work with the Home Office to progress applications.

²¹ <https://www.gov.uk/government/publications/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020>.

²² http://www.t3m.org.uk/HO_letter_StuartMcDonald_Dec20.

²³ <https://www.gov.uk/government/publications/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020>, p. 2.

Monitoring this progress of securing a child or young person's status should be part of every review meeting with outstanding actions tracked and updated.²⁴

(b) Ensuring critical information is recorded

It is critical local authorities maintain detailed records of the applications made to ensure an application's progress can be checked, any digital status granted can be accessed, and to ensure those granted pre-settled status upgrade to settled status when required. This information must be recorded in the child's care plan or the care leaver's pathway plan. As the Home Office cautions, it is essential this information is stored centrally to ensure 'changes in personnel do not affect the ability to access it when needed.'²⁵

The information recorded must include²⁶:

- The Unique Application Number (UAN) given when the application is made;
- The e-mail address(es) and phone number(s) entered in the application form;
- The address provided in the application form;
- The answers given to the memorable questions at the end of the application form;
- The nationality of the child or care leaver;
- The status the child or care leaver was granted; and
- The date at which the child or care leaver must apply to convert their pre-settled status into settled status, and the date their pre-settled status expires.

(c) Ensuring those with pre-settled status reapply for settled status

It is of utmost importance that local authorities record and track when a children in their care or care leaver is granted pre-settled status. These children and young people will have received a time-limited immigration status which expires in 5 years time. To ensure they do not become undocumented at this future date, their pre-settled status must be upgraded to settled status once the child or care leaver has accrued 5 years continuous residence in the UK. The local authority will need to upgrade the status of a child in their care, or seek legal support in order to do so. Some children may leave care in the intervening years and will need to be reminded and supported to upgrade their status. As set out in the Home Office guidance to local authorities: 'plans for applying to convert this into settled status, including the deadline for doing so, must be documented in the care leaver's pathway plan.'²⁷

²⁴ See GMIAU "Guidance to Children's Services and Leaving Care Teams on Brexit Immigration Changes", p. 5, available at: <https://gmiau.org/speaking-out/children/>.

²⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918663/looked-after-children-EUSS.pdf, p.8.

²⁶ Id.

²⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918663/looked-after-children-EUSS.pdf, p. 12.

Case Study provided by Coram Children's Legal Centre

Adam is a 4-year-old child born in London and looked after by a London local authority. As a Romanian citizen the consent of both his parents is required for a passport application. However, the identity of Adam's father is unknown. Despite repeated and sustained efforts by several social workers and legal advisers from children's charity Coram, it has been impossible to obtain a Romanian passport for Adam. Instead, a legal adviser has applied to the EU settlement scheme using a paper application form, which is significantly longer process. Six months from the date of application, Adam, his social workers and his legal adviser were still waiting for him to be granted status.

Because Adam is only four years old, and is separated from his parents, he can only apply for pre-settled status; his social workers must go through this process again in the future once Adam is over the age of five and has evidence of having lived in the UK for five years. This will probably not be until Adam has been in care for five years, when he is aged eight. By this point there will probably be no government funding to support vulnerable applicants. Unless an application is made (and paid for) for Adam to become British, he will not be able to have a passport or any ID until after his eighteenth birthday, meaning he cannot leave the UK for holidays or to visit Romania.

(d) Supporting care leavers and securing status before children turn 18

Local authorities must have a clear strategy for identifying eligible young people who have left care, including how they can be reached, supported and their progress monitored. The fact that children come out of scope for legal aid and other support services and that opportunities to resolve their immigration status become more restricted once they turn 18, highlights just how important it is that local authorities work to resolve and secure the immigration status and nationality of the children in their care before they reach adulthood and leave.

Conclusion



The Home Office has acknowledged the 'often complex nature of the[] lives and circumstances' of looked after children and care leavers but stated that this is not 'an issue created by the EUSS'.²⁸ Yet, the penalties these children and young people may now face due to processes of the EUSS and their being reliant upon others, is a result created by the EUSS. Nonetheless the Government refuses to make any changes which would ensure all relevant looked after children and care leavers secure the status to which they are entitled and should hold. The onus is now on local authorities to meet their statutory responsibilities and minimize the detrimental impact of the EUSS regime on this cohort. This briefing has set out recommendations to assist local authorities in identifying these children and young people, to make their applications swiftly and to ensure their permanent immigration status is secured for the long term.

The UK's exit from the EU and the consequent need for all EU nationals and family members living in the UK to secure their status has highlighted the critical need for local authorities to address the immigration status and nationality issues of the children and young people within their care. If these children and young people are not supported to secure their status and citizenship in time, particularly before they turn 18, they face the risk of destitution and will struggle to access education and work, with a possibility of deportation. This moment provides a critical opportunity for Local Authorities to put in place frameworks and proactive practices to ensure the lawful status or citizenship of each of the children and young people in their care is secured so that they might transition into adulthood with stability and their rights protected.

²⁸ See <https://committees.parliament.uk/publications/4264/documents/43356/default/>.

Appendix 1: Home Office Resources

As set out on page 15, the Home Office has allocated specific resources to help local authorities and trusts make or support looked after children and care leavers in making applications to the EUSS. Per Home Office correspondence²⁹, these resources include:

- A toolkit and guidance for local authorities and trusts setting out their responsibilities in making or supporting EUSS applications;
- Regular teleconferences specifically for local authority staff making applications to the EUSS, to offer a direct point of contact with the Home Office; and
- A series of workshops to address barriers identified by local authorities to making applications for these children.

There are three further practice points which may help local authorities and trusts in making or supporting looked after children and care leavers to make applications to the EUSS:

- a) Alternative identity documents are acceptable for this cohort.

The Home Office guidance sets out that the Home Office recognises there will be cases where the applicant (or the local authority or trust acting on their behalf) will be unable to produce the required identity documents 'due to circumstances beyond their control or to compelling or compassionate reasons.'³⁰ In these cases, the Home Office will accept alternative evidence of identity and nationality. Such cases will require applying on a paper application, which must be requested from the Home Office through its Settlement Resolution Centre (phone number: 0300 790 0566). The paper application requires more time to complete (taking into account time required to request and receive the application, compile the necessary documents, sort a physical passport picture and post the completed application), so local authorities are encouraged to begin such applications as soon as possible.

- b) Guidance that all others can apply with alternate evidence

In light of Covid-19, the Home Office has issued guidance for all EUSS applicants affected by coronavirus restrictions.³¹ Amongst other measures, the guidance sets out

²⁹ <https://committees.parliament.uk/publications/4264/documents/43356/default/>

³⁰ *Id pp. 18-19.*

³¹ <https://www.gov.uk/guidance/coronavirus-covid-19-eu-settlement-scheme-guidance-for-applicants>, issued 15 December 2020.

that if an applicant is now unable to travel to an embassy or embassy offices are shut, the applicant may be able to apply with an alternative form of identity and nationality documentation (such as an expired passport), again by making a paper application.

- c) For children in care or care leavers under 21 whose parents have secured settled status

The Home Office has set out that it works with local authorities to ensure looked after children and care leavers under the age of 21 are granted settled status where one of their parents has been granted this status (regardless of whether the parent has legal parental responsibility where a looked after child is concerned).³²

The above measures may expedite the application process and improve the chances of a child securing status in a timely manner.

³² *"We also work closely with local authorities to seek to ensure that, in line with the more generous domestic provisions which the EUSS makes for this for all children under the age of 21, a looked after child or care leaver under that age is granted settled status under the EUSS where a parent has been granted this status (whether or not, where a looked after child is concerned, the parent has legal responsibility for them)."* See <https://committees.parliament.uk/publications/4264/documents/43356/default/>.

Appendix 2: Further Resources

The below organisations provide assistance with EUSS or British citizenship applications. A further listing of organisations is available at:

<https://www.gov.uk/government/publications/eu-settlement-scheme-community-support-for-vulnerable-citizens/list-of-organisations>. EUrights.uk also provides information and links of organisations offering advice and assistance with the EUSS.

The AIRE Centre (Advice on Individual Rights in Europe): provides online support for victims of abuse and trafficking, homeless people, children in care, Roma people, individuals in atypical and vulnerable living situations and complex cases.

Tel: 0044 207 862 5819

Email: info@airecentre.org

The Children's Society: specialises in face to face support (drop-ins and appointments) and an email support service for children, families and vulnerable adults.

Tel: 0191 349 9481

Email: euss@childrenssociety.org.uk

Coram Children's Legal Centre: provides a specialised service which includes email support and complex case advice for cases involving migrant children or young people, families and carers.

Tel: 020 7713 0089

Email: euss@coramclc.org.uk

Greater Manchester Immigration Aid Unit (GMIAU): providing support for children in care and care leavers affected by Brexit immigration changes.

Tel: 0161 740 7722

Email: referrals@gmiau.org

Here for Good: provides legal advice to EEA citizens living in the UK and their family members.

Tel: 0207 014 2155 (M 09:30-11:30; W 11:30-13:30; F 13:30-15:30)

Tel: 0115 964 4112 (T 09:00-11:00; Th 15:00-17:00)

Project for the Registration of Children as British Citizens (PRCBC): helps children and young people with their right to British Citizenship.

Every young person should have the support they need in order to enjoy a safe, happy childhood.

That's why we run services and campaigns that make children's lives better and change the systems that are placing them in danger.

The Children's Society is bringing hope back to children's lives.

For further information contact:

**policy@childsoc.org.uk
childrenssociety.org.uk**