

EU Settlement Scheme – Safeguarding Vulnerable Groups

Summary and Recommendations

COSLA is working with the UK and Scottish Government to ensure that EU citizens living in the UK are well informed and can access settled status, as we approach the launch of the launch of the EU Settlement Scheme. This paper provides an update on the EU Settlement Scheme with the developing position regarding identifying and supporting vulnerable people in applying.

This paper invites the Community Wellbeing Board to:

- i. Discuss the understanding currently held by COSLA officers about the vulnerable groups local authorities will be required, or may need, to support;
- ii. Identify any additional vulnerable groups local authorities will be required to support; and
- iii. Share any initial plans from their local authorities as to how they are, or are planning, to engage with their communities in general and vulnerable groups specifically.

References

Previous reports on the EU Settlement Scheme:

- November 2018, Leaders, Item 9 – Brexit Update
- August 2018, Leaders, Item 10 – EU Settlement Scheme
- May 2018, Community Wellbeing Board, Item 3b – EU Citizens in the UK

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Purpose

1. This report provides the Board with an update on developments in relation to the EU Settlement Scheme, and work required to identify and support vulnerable groups in local communities.

Current COSLA Position

2. COSLA and Scottish local authorities are committed to supporting EU citizens living in Scotland to remain in our communities and retain their rights. We have been clear about the need to maintain the rights of EU citizens living in the UK and ensure that the processes needed to realise these are accessible. We are working with UK Government and Scottish Government to do all we can to alleviate the concerns that have been generated from the decision to leave the EU, and to ensure rights and entitlements are maintained.

Vulnerable Groups

3. COSLA is a member of the Home Office Safeguarding Group which is looking to support vulnerable groups. COSLA has also been working with local authority officers to identify groups of people who might be vulnerable and struggle access the scheme, as well as to identify the . Concurrently we have been working with local authority officers to identify the responsibilities and opportunities local authorities have to support these people. This is an extremely complex area with few straightforward answers, not least due to a lack of data to identify the number of people affected. There has been no clear guidance or direction from the UK Government on these issues.

Looked After Children

4. There are 15,000 looked after children in Scotland but no data is held on the nationalities of these young people and therefore no data on how many of these children will be required to apply for settled status to retain their rights to reside. Children are able to apply on an individual basis, even if their parents choose not to. We understand that, unlike applying for British citizenship, the process of obtaining confirmation of pre-settled status or settled status does not require parental consent if the child is old enough to apply on their own behalf. Local authorities can therefore support any looked after child to apply on their own behalf. This may include directing or supporting the child to access specialist legal advice.
5. Where a child is too young to apply on their own behalf, a local authority would only be able to apply on their behalf where they have parental rights and responsibilities for the child via a Permanence Order, or when they have parental consent to do so. Where the child is unable to give consent or request support from the local authority and their parents chose not to apply for settled status, the local authority would have to, through the normal safeguarding and best interest assessments, assess whether this may contribute to the need to apply for a Permanence Order.
6. Discussions with local authorities suggest that the number of children is likely to be low but that resources will be required to identify them. Additionally, the expectation is that while the application for settled status itself might be straightforward, a bigger challenge is likely to be where children do not have, or do not have access to, identify documents.

Local authorities report that this can sometimes be resource intensive and time consuming, especially where the local authority has limited experience with the paperwork and contact with consulates.

7. The Home Office has created an exemption for looked after children being required the fee to apply for settled status. We are seeking confirmation that this applies to all looked after children and is not limited only to those for whom local authorities have parental rights and responsibilities.
8. Where a child is only eligible for pre-settled status, the local authority may need to support their future application for settled status once they have and can evidence five years' residence.

Care Leavers

9. Care leavers are entitled to advice, guidance and assistance from a local authority up until their 26th birthday. Therefore, where requested by a care leaver, local authorities can be expected to support a young person in applying for settled status. This may include directing them to specialist legal advice. There is no data on how many young people in this category will be required to apply for settled status to retain their right to reside.
10. As with looked after children, where a young person is only eligible for pre-settled status, the local authority may need to support their future application for settled status once they have and can evidence five years' residence.

Adults in Care Homes

11. There are around 33,000 adults in care homes throughout Scotland but we have no data on how many of these people will be required to apply for settled status to retain their right to reside. The expectation with this cohort is that there will be a very limited number of people who may have diminished capacity where the local authority is legally able to apply on their behalf. However, there is an expectation that a significant majority will need support in accessing the application and using the technology to apply. Some may also need to access specialist legal advice.
12. As with children in care, it is anticipated that there may be a number of adults who struggle to prove their identity as they may have lost national identity cards or passports. Local authorities may therefore feel the need to assist people in applying for these documents. Some people in care may not be able to provide their national insurance number or have access to documents which prove their residence beyond the time they have been in a care home.

Adults receiving Care at Home

13. There are almost 60,000 adults in Scotland receiving home care services. There is no data on how many of these people will be required to apply for settled status to retain their right to reside. Again, it is expected that a significant number of adults receiving care at home may require assistance in accessing the application and using the technology to apply. Additionally, some may have challenges evidencing nationality or residence.

People Fleeing Domestic Violence, Trafficking Victims, Homeless

14. Adults and families fleeing or who have experienced domestic violence, people who have been trafficked, who experience homelessness or have chaotic lifestyles may also struggle with the application process. Some may have difficulty evidencing their nationality or residence because they are no longer able to access the documents, accepted evidence of residence was not put in their name, or they are unable to provide evidence. Local authorities may be asked to document periods where people have accessed service as this will be accepted as evidence of residence. There is also

provision in the Home Office caseworker guidance to enable to them apply discretion on 'exceptional compassionate or practical grounds', but there is no detail on what this means in practice.

15. The current pilot phase of the Settlement Scheme includes some testing of people in these vulnerable groups and may provide useful learning for local authorities prior to the full role out.

Criminal Justice Social Work

16. It is anticipated that Criminal Justice Social Work may have a signposting role for any non-UK EU citizens that they work with who will need to apply for settled status to retain their right to reside. While applicants will have to declare criminality, the Home Office has stated that the usual public order tests of serious or persistent criminality will apply. In practice this should mean that only those who are already subject to a deportation order will be denied status – it is not intended to be used to deny settled status to any new cohorts.
17. It is worth noting however, particularly for those that get pre-settled status, that any criminality that becomes persistent or escalates may affect any future applications for immigration status such as applying for settled status after a person has been resident for five years.

Broader work to support EU citizens

18. In addition to councils' work to support vulnerable groups, it is clear that local authorities will be engaging with EU citizens more generally as they look to support them over the months ahead. This will build on the work that local authorities have already undertaken to ensure that EU citizens are well informed about the Brexit process. It is likely that this will have a particular impact on front line council advice and support services that will come into contact with EU citizens on a regular basis.
19. COSLA is working with the Home Office and Scottish Government to ensure clarity on the expected role that councils will play in this regard, and the impact that it might have on council services. Local authorities should rightly expect funding from government to assist them in this regard, and COSLA will reflect that in our ongoing discussions regarding the new burdens that will fall upon Local Government as a result of the roll out of the Settlement Scheme. We are also working to ensure that any support that is put in place will dovetail with other means of support. For instance, UK Government has launched a voluntary and community sector grant fund – applications for this are open until 1 February 2019 – while Scottish Government has announced that they will be funding an advice service for EU citizens. Further details on this will be shared once they become known.
20. Finally, members should note that the Home Office has prepared a communications toolkit for local authorities. Links to this, and to other information on the EU Settlement Scheme, can be found on the [COSLA website](#). The website also includes details on a planned digital assistance service, to support EU citizens applying for settled status. More than half of Scottish local authorities have registered an interest in providing this service.

Next Steps

21. The Board is asked to discuss the vulnerable groups identified above and share views on the role that local authorities will have to play to apply on behalf of or support EU citizens through the application process. Views on any other vulnerable groups, or EU citizens more generally, that local authorities may have contact with who may need support in applying for settled status would also be welcomed.

22. In addition, the Board is invited to share any initial plans from their local authorities as to how they are, or are planning, to engage with their communities in general and vulnerable groups specifically.
23. COSLA will continue to work with local authorities, the Home Office and Scottish Government to reach a position on vulnerable groups and the support that local authorities are required to provide to them. We will also seek to gain a better picture of the support that local authorities are likely to provide to EU citizens more generally, and will conduct further work on the resourcing implications of these duties and activities as a means of lobbying for necessary funding from government to support the key role that councils will play in relation to the Settlement Scheme.

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