

Roma EU citizens in the UK: Ongoing struggles with the EU Settlement Scheme

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1. Summary of findings

ACQUIRING STATUS

- **Roma communities in the UK (at least 200 000) continue to require extensive support** in order to apply for the EU settlement scheme (EUSS)
- Our research suggests that **many Roma in the UK (including children) do not have settled or pre-settled status**, often when they would probably be eligible. There are also Roma resident in the UK who do not have status and would likely not be eligible (often unknowingly). In both cases, this will create future challenges for the individuals and families concerned and for local authorities and public service actors and providers.
- A disproportionate number of Roma were granted pre-settled rather than settled status, which means that **many Roma now need to upgrade their status to settled**. This was something that many were struggling to navigate between 2022 and 2024. In particular, they were **struggling to both evidence and understand the meaning of ‘continuous residence’**.
- **Many Roma have not applied for status for their children**. Some advisors noted that, in part, this was a legacy effect of not easily allowing paper applications for those without passport/ID information (many Roma children were in this category) in the early period of the EUSS rollout.
- **Many Roma coming to the UK as joining family members are encountering difficulties**, particularly when it is necessary to evidence a dependence on an individual in the UK who has status, or when it is necessary to evidence a durable relationship with a partner/spouse that pre-dates December 2020. Broader conceptions of family in the community do not fit with narrower EUSS definitions.
- **Many joining partners/spouses are not going to be eligible for status**, but are resident in the UK, often with children (with, or eligible for, status). They will usually not meet the minimum income criteria for the joining family visa route.
- **Many Roma are having late applications (after 30 June 2021) rejected, particularly since the stricter approach to such applications from August 2023**, even in cases where advisors suspect that they would be eligible for status.
- **Since August 2023 the evidentiary bar had reportedly been raised** for late applicants, joining family members, and those seeking to upgrade from pre-settled to settled status. Advisors also reported inconsistencies in Home Office decision making.
- Where Roma EU citizens want to apply for British passports for themselves or their children (who are increasingly often going to be British), they encounter **difficulties finding someone on the ‘accepted occupations’ countersignatories list**.
- **A lack of status for children has created issues in relation to accessing services** (e.g. we know of cases where families may be liable for NHS charges for children’s medical treatment due to a lack of status)
- **Roma may not know and/or struggle to evidence when their children are British by birth** (i.e. born in the UK to at least one parent with settled status or pre-settled status plus permanent residence). This *may* also be an issue in relation to charges for health care, where NHS trusts do not know that children are British
- **Some Roma who acquired ILR in the UK before 2004 are encountering difficulties**. They were not required to apply to EUSS, but are being asked to prove status with EUSS share codes that they do not have/ cannot get (e.g. by DWP).

- Some **Roma late applicants with new passports were being asked to prove their pre-2021 nationality**. This was difficult where old passports/ID documents were not returned to applicants.

USING STATUS AND SUPPORT

- Many **Roma do not know about or are struggling to use their digital status**, in many cases because they cannot access the details (passport/ID information, email address, phone number) that were used to set up – and are required to access – their account. This can create issues in relation to providing share codes to e.g. employment agencies in a timely fashion (and often results in lost work opportunities).
- **Roma with pre-settled status often struggle to access a range of benefits** (especially universal credit) due to the right to reside test.
- **There are growing support gaps when it comes to assisting Roma at community levels** (e.g. to make simple applications and use their status) **and providing higher level legal support for more complex EUSS cases**, as a consequence of the phasing out of Home Office (GFO) funding and other financial pressures on local authority and civil society actors (e.g. Citizens Advice).
- **Roma of certain nationalities struggle to get appointments with their embassies** to get/ renew passports/ ID documents (needed for EUSS processes).
- There is **significant misinformation relating to EUSS**: some Roma thought that the upgrade to settled from pre-settled was automatic for everyone; rumours were also circulating on certain social media frequented by Roma in 2024 that the UK was to re-join the EU free movement regime.

2. Recommendations

Recommendation	Actor(s)
<p>Introduce a physical form of ID proving settled status that EU citizens can choose to use to prove status instead of the 'digital only' EUSS <i>process</i> for proving status, making it easier for vulnerable EU citizens to use status (and for interlocutors to confirm status)</p>	Home Office
<p>Ensure that all with pre-settled status are able to access benefits including universal credit (<i>at least</i> ensure correct implementation of the 'right to reside' test and ensure implementation of the <i>SSWP v AT</i> judgement)</p>	Home Office/ Department for Work and Pensions
<p>Ensure that all EU citizens with pre-settled and settled status are able to access Withdrawal Agreement rights (i.e. remove the problematic distinction between a 'true' and 'extra' cohort)</p>	Ministry of Justice/ Home Office
<p>Continue to consider late applications on grounds of a 'lack of awareness', especially when an applicant is demonstrably from a marginalised group with limited English language and digital skills</p>	Home Office
<p>Do not pursue plans to curtail pre-settled status (or, if those plans are pursued, show leniency where EU citizens do not respond to messages). For the various reasons enunciated in this report, many Roma will not receive the messages from the Home Office and will be particularly susceptible to losing status.</p>	Home Office
<p>Make the process for evidencing 'continuous residence' far less onerous for those seeking to upgrade from pre-settled to settled status and guide decision makers to show leniency towards populations, including Roma, that tend not to have easy access to such evidence</p>	Home Office
<p>Simplify the definition of 'continuous residence' (it is not easy for people to easily keep track of '180 days in any 12 month period')</p>	Home Office
<p>Ensure that all government departments and public bodies are aware that not all legally resident EU citizens will have an EUSS status. Such cohorts will not be able to generate a share code. Alternative proof of status should be accepted in such circumstances. This includes: those with a form of ILR</p>	Home Office/ all government departments/ public bodies

predating settled status and children of EU citizens who acquired British nationality automatically (e.g. because they were born to a parent with settled status).	
Increase grassroots capacity for supporting Roma in relation to EUSS , through funding for Roma supporting community organisations and relevant Local Authorities, some of which should be distributed to community organisations with Roma (or other trusted) staff with suitable linguistic skills	Home Office/ Local Authorities
Increase capacity for higher level legal migration advice: extend Home Office GFO funding; increase local capacity for higher level (OISC 2/3) support (via e.g. Citizens Advice); directly support higher level advisors with extensive experience of supporting Roma (especially the small number of such advisors who are Roma)	Home Office/ Local Authorities/ Charity sector
EU governmental actors should offer alternative support options beyond the UK government (e.g. funding for local organisations working with EU nationals from embassies/ the EU; introduce/ expand exchange schemes that allow young EU nationals to work in the charity sector in the UK with vulnerable EU citizens - positive engagement from UK with the proposed youth mobility scheme could facilitate this)	European Commission (UK delegation to EU); Romanian, Slovak, Polish, Bulgarian Embassies
Remove the spouse/ partner visa minimum income threshold to allow family (re)unification in the UK for all British citizens and EU nationals (this is particularly important for joining Roma partners in the UK, and especially those with children)	Home Office
Relax the countersignatory requirement for British passport applications , especially for vulnerable migrants/ EU citizens who will often have limited appropriate contacts (this is a particular issue when applying for British passports for automatically British children)	Home Office
Ensure that EU nationals (including Roma) can more easily get appointments with their embassies to e.g. acquire/ update passports	National Embassies; UK delegation to EU
Ensure that there is easily accessible evidence visible in the EUSS/ UKVI system of <i>when</i> an individual was first granted status (this is significant e.g. when trying to ascertain if a child is British based on the date that status was granted to a parent)	Home Office
Where parents can prove they have settled status at the time of their child's birth, issue them with a letter which can serve as proof that the child is British	Home Office; Health and Social Care/NHS

<p>Where proof is sought that late applicants with new passports were EU nationals pre-2021, ensure that the burden of proof is on the Home Office, not the applicant and that Article 18 WA on 'evidential flexibility' is applied as necessary</p>	<p>Home Office</p>
<p>Ensure that research is properly funded to ensure the data on ethnic minority EU citizens in the UK and their lived experiences is robust and accurate</p>	<p>UK government, European Commission (research funding)</p>
<p>Remove late application checks from those with a form of ILR predating EUSS. In other words, accept all late applications from such individuals and make it clear to this cohort that EUSS is a better option than alternative routes to an eVisa.</p>	<p>Home Office</p>
<p>Where an individual without status has been charged for health treatment and they subsequently acquire status, remove/reimburse the charge.</p>	<p>Health and Social Care</p>
<p>Ensure that pregnant EU citizens in the UK without a migration status are not charged for maternity care.</p>	<p>Home Office/ Health and Social Care/ NHS</p>

3. Introduction

There are an estimated 6 million EU citizens resident in post-Brexit Britain; a higher population of EU citizens than in at least eleven EU member states. A significant percentage of those EU citizens are from ethnic minorities, including hundreds of thousands of Roma EU citizens, mostly from Romania, Slovakia, Czechia, Poland, Bulgaria and Hungary.

While the Roma population of EU citizens in the UK is diverse, many have complex vulnerabilities which stem from multi-generational discrimination and exclusion in their countries of origin. The EU's Fundamental Rights Agency in 2021 highlighted that 80% of Europe's Roma were at risk of poverty and nearly half faced severe material deprivation.¹ Discrimination coupled with socio-economic deprivation were the main drivers of Roma migration to western European countries such as the UK. While a number of Roma successfully claimed asylum in the UK in the 1990s, more significant numbers arrived in the period after the 2004 and 2007 EU enlargements, which facilitated the free movement of individuals within the EU from the new central and eastern European member states.

It is very difficult to estimate the number of Roma EU citizens in the UK, given a paucity of data on the ethnicity of EU citizens in the UK. Just over 100 000 self-declared as Roma in the 2021 UK census. Although the census does not reveal nationality, around 13-14% either identified as British or reported that they were born in England. This suggests a migrant (mostly EU citizen) Roma population of around 90 000. However, given a widespread reluctance of Roma to declare their ethnicity, the census figure is unlikely to be accurate. To take the case of Sheffield - the lower tier local authority with the highest number of self-declared Roma – the census suggests a resident Roma population of 2 710. But we know that in Sheffield there had been 11 760 Slovak applications for EUSS between 2018 and 2023 (and that most Slovak in Sheffield are Roma). Accounting for some non-Slovak Roma and some non-Roma Slovak, and the possibility of multiple applications from some individuals, this figure still indicates that there are likely to be at least three times as many Roma in Sheffield as the census numbers would suggest. Research conducted in 2012 estimated that there were approximately 200 000 migrant Roma in the UK² (mostly EU citizens) and this figure is likely to have substantially increased since then. Indeed, most local level advisors suggested that there had not been any significant post-Brexit drop off in the number of Roma in their local areas and some suggested large numbers of new arrivals after the 2016 referendum. Taking these different factors into account, some Roma advocates believe that there could be as many as half a million Roma in the UK.

This report outlines the challenges that Roma EU citizens *continue to face* when navigating the EU settlement scheme (EUSS) and offers a set of policy recommendations based on our findings (section 2). Previous research, including by the RSG, has reported on the experiences

¹ Roma Survey 2021, Technical Report, EU Fundamental Rights Agency <https://fra.europa.eu/en/publication/2023/roma-survey-2021-technical-report#:~:text=Roma%20%2D%20Europe's%20largest%20minority%20of,as%20the%20Racial%20Equality%20Directive.>

² Brown, Scullion and Martin. Migrant Roma in the United Kingdom: Population size and experiences of local authorities and partners. Final Report. October 2013. <https://pure.hud.ac.uk/en/publications/migrant-roma-in-the-united-kingdom-population-size-and-experience>

of Roma in relation to EUSS.³ As we note herein, some of the issues reported remain unresolved and live issues, while a number of new issues have also emerged.

Our key message is that challenges related to EUSS were still very real for Roma EU citizens in the UK in mid-2024, three years after the formal deadline for applications had passed, and significant challenges were likely to remain for years to come. Many Roma EU citizens were without status - including individuals who likely had a Withdrawal Agreement right to status - meaning that the risk of a future repeat of the Windrush scandal was high.⁴ Moreover, many Roma with status were struggling to prove it by navigating the novel EUSS 'digital only' process.

Our findings draw on various sources. We formally interviewed 15 Roma community workers or Roma advocates in 2023/24 – mostly based in Sheffield, Glasgow and London – who have been working on EUSS for many years and we spoke informally with many more individuals. In March-May 2024 we conducted an online survey, co-designed with RSG, of 35 frontline advisors/ advocates, most of whom are working directly or indirectly with Roma populations in their local areas and many of whom have been actively supporting Roma since the EUSS was first rolled out in 2018/2019. We also spoke with several national level EU citizens advocates who have been involved in offering support for EU citizens in relation to EUSS. Additionally, we conducted several information sessions in London (with RSG), Sheffield and Rotherham in the spring of 2024 where we exchanged information on EUSS with community participants (in total around 75). We conducted a short questionnaire with participants in the context of those sessions, and also sought to explain aspects of EUSS to those participants. We also drew on surveys of Roma, organised by RSG, in 2020 and 2022 (on EUSS related issues) and in 2024 (on broader issues related to digital access and literacy).

³ Roma Support Group. Statement on the impact of EU Settlement Scheme digital-only status on the Roma Community in the UK.

https://www.romasupportgroup.org.uk/uploads/9/3/6/8/93687016/statement_on_the_impact_of_the_eu_settlement_scheme_digital_only_status_on_roma_communities_in_the_uk_final.pdf

Roma Support Group. Briefing for Parliamentarians and local authorities: The EU Settlement Scheme and the Roma community. Panel discussion with Roma Support Group and APPG for Gypsies, Travellers and Roma. 17 November 2020.

https://www.romasupportgroup.org.uk/uploads/9/3/6/8/93687016/briefing_mp_la_for_grt_appg_event_roma_and_euss_final.pdf

Roma Support Group. Brexit, EUSS and Roma Communities in the UK. June 2020.

https://www.romasupportgroup.org.uk/uploads/9/3/6/8/93687016/roma_brexit_euss_report_16.06.2020_final.pdf

Brown. Falling through the gaps: the EU Settlement Scheme and the case of Roma communities in the UK Report on an All-Party Parliamentary Group event held on the 17 November 2020.

<https://www.gypsy-traveller.org/wp-content/uploads/2021/01/SM03-EUSS-Report.pdf>

⁴ BBC, What is Windrush and who are the Windrush generation? 27 July 2023. <https://www.bbc.co.uk/news/uk-43782241>

4. The EU settlement scheme

4.1 Background

Any EU citizen resident in the UK prior to the end of 2020, was able to stay and work in the UK. Indeed, in the context of the Brexit negotiations, both the EU and the UK government made a commitment to protect the rights of EU citizens in the UK and UK citizens in the EU. The Withdrawal Agreement (WA) enshrines protections for EU citizens who “exercised their right to reside” before the end of the transition period (11pm on 31 December 2020) “and continue to reside there thereafter” (Article 10 WA). Those who have “resided legally in the host State in accordance with Union law for a continuous period of 5 years ... shall have the right to reside permanently in the host State” (Article 15 WA). The WA also protects the family members – as defined in EU law, so including spouses, children, parents and grandparents – of those EU citizens. The rights to be granted to such citizens are similar to those they enjoyed as EU nationals, including a right to residence and non-discrimination (in accordance with relevant EU law, particularly Directive 2004/38). Notably, the WA has legal supremacy over the various laws, rules and regulations that seek to implement it.

The Independent Monitoring Authority for the Citizens’ Rights Agreements (IMA) was established in accordance with the WA (Article 159) in order to oversee the implementation of the WA in relation to EU citizens’ rights. It was granted powers equivalent to those of the European Commission prior to Brexit, allowing it to bring legal proceedings against the government or public bodies where breaches of the WA are suspected. As its website puts it, “essentially, the IMA is here to help make sure people from EU and EEA EFTA countries get the same rights as they did before the UK left the EU.” Where cases are brought before them, UK courts are enabled to ask preliminary questions to the Court of Justice of the EU (for a period of 8 years from the end of December 2020). The IMA successfully challenged features of the EUSS system that were in breach of the WA and likely to create particular issues for EU citizens through the courts, but some EU citizens’ advocates were critical of its reluctance to intervene in relation to other issues.⁵

The WA also established a series of committees to oversee its implementation, which included a Specialised Committee on Citizens’ Rights. That committee monitors the implementation and application of citizens’ rights, aiming to protect UK nationals in the EU and EU nationals in the UK. Held every 6 months, the EU has used these committees to raise a number of issues pertaining to the implementation of the WA in relation to citizens’ rights. The EU’s UK delegation in London are active in monitoring this situation and work closely with a range of EU citizens’ advocates and EUSS advisors.

Those EU citizens not covered by the WA would no longer be able to benefit from the full free movement rights that they did before Brexit. But they would still be able to visit the UK without a visa for a period of up to six months and engage in certain activities. As the Home Office guidance put it, such individuals could: “continue to visit the UK without applying for a visa and in most cases, can stay for up to six months. You may participate in a wide range of activities, including tourism, visiting family and friends, short-term study, and business-

⁵ Barnard, Costello, O’Brien, Portes and Rutter. The EU Settlement Scheme. UK in a Changing Europe. June 2021. <https://ukandeu.ac.uk/wp-content/uploads/2021/06/The-EU-Settlement-Scheme.pdf>

related activities, such as attend job interviews, meetings, events and conferences.”⁶ However, in practice, EU citizens without (and, indeed, with) status did encounter issues at the UK border in the post-Brexit period as noted below (section 6.3).

Under the terms of the WA, the UK government had the choice of a declaratory approach – which would have not required legally resident EU citizens to acquire a new status – or a constitutive approach – which would require them to actively apply for such a status in order to maintain the right to reside. Prominent Brexit campaigners had implied that the former approach might be taken in the context of the 2016 referendum campaign. For instance, Boris Johnson, Priti Patel and Michael Gove pledged that “EU citizens will *automatically be granted* indefinite leave to remain in the UK and will be treated no less favourably than they are at present.”⁷ However, following Brexit, the UK chose the latter approach, with its adoption of the so-called EU Settlement Scheme (EUSS).⁸ In the context of the government’s broader ‘hostile environment’ approach to migration, this trajectory was not surprising: it would afford a greater possibility to monitor migration status and EU migrants in the UK.

Under the EUSS, those able to prove continuous residence of 5 years or more prior to the end of transition were granted settled status – which offered them indefinite leave to remain (ILR) – while those able to only prove residence for a shorter period were granted so-called pre-settled status. Notably, the UK government offered a more lenient approach than that possible under the terms of the WA with respect to proof of residency. While the WA referred to *legal* residency in accordance with EU law, the UK government only required proof of continuous *physical* residence in the UK (this was largely for administrative ease). In other words, in order to acquire status it was not necessary for EU citizens in the UK to demonstrate that they were exercising EU treaty rights on 31 December 2020 (i.e. it was not necessary to provide proof of having been a worker, jobseeker, self-sufficient person with comprehensive sickness insurance etc.); it was only necessary to prove physical residence prior to that date.

One particularly relevant disadvantage for those with pre-settled status was that they would be subject to a ‘right to reside’ test – a check that they are workers, self-employed or jobseekers – in order to be eligible for benefits. After a series of legal challenges questioning such a policy domestically and at EU level⁹ it was determined that a refusal of benefits to those with pre-settled status could be legitimate only if it could be ascertained that the fundamental rights of the individual concerned – as contained in the EU’s Charter of

⁶ The UK’s points-based immigration system: Information for EU, EEA and Swiss visitors. https://assets.publishing.service.gov.uk/media/613777bae90e0704352cbb0a/The_UK_s_points-based_immigration_system_-_An_introduction_for_EU_EEA_and_Swiss_visitors.pdf

⁷ Gove, Johnson, Patel, Stuart. Restoring public trust in immigration policy - a points-based non-discriminatory immigration system. 1 June 2016. http://www.voteleavetakecontrol.org/restoring_public_trust_in_immigration_policy_a_points_based_non_discriminatory_immigration_system.html

⁸ UK GOV. EU Settlement Scheme: statement of intent. Published 21 June 2018
EU Rights and Brexit Hub. New adviser toolkit on worker/self-employed status for EEA nationals. <https://www.eurightshub.york.ac.uk/project-news/new-adviser-toolkit-on-workerself-employed-status-for-eea-nationals>

⁹ O’Brien. ‘No room for doubt’: Pre-settled status, benefits and the Charter of Fundamental Rights. EU Rights and Brexit Hub. February 2022.

<https://www.eurightshub.york.ac.uk/blog/qol2xenw5pbuowcdu5tz3vrp5zpezu>
O’Brien. Memo: Pre-settled Status and benefits: C-709/20 CG v the Department for Communities in Northern Ireland. 15 September 2021
<https://www.eurightshub.york.ac.uk/blog/itzfzid6d8awrwaco1w6agqx1pfdi>

Fundamental Rights – would not be placed at risk (see the case of *SSWP vs AT (AIRE Centre and IMA intervening)*). In other words, the DWP must, as of 2024, conduct individual assessments and award UC if to not do so would mean a claimant with pre-settled status living in a situation without dignity. In practice, that was likely to mean a situation of “extreme material poverty” that “puts him in a state of degradation.”¹⁰ It should therefore technically be possible for at least some of those with pre-settled status to rely on Charter rights – via their WA rights – in such circumstances in order to claim UC, although the *AT* judgement was notably still not generally being implemented in mid-2024.¹¹

Crucially, there also remained significant legal doubt as to whether some individuals with pre-settled status actually had WA rights at all. As noted, in certain respects, the EUSS scheme was more generous than the WA when it came to assessing a right to acquire status. This meant that some people who were eligible and able to acquire status could potentially be conceived as being outside the scope of the WA.¹² In other words, individuals with pre-settled status could be interpreted as being part of what the government called an ‘extra cohort’ (as opposed to the ‘true cohort’), if they were not ‘exercising treaty rights’ – had no right to reside – at the end of December 2021.

Where the case of *AT* had granted at least some welfare rights to those with pre-settled status and without a clear right to reside, being designated as part of an ‘extra cohort’ could lead to the removal of those rights. The most vulnerable EU citizens – the long-term homeless for instance, or victims of domestic abuse – would be the most likely to fall into this category. Those with pre-settled status and a right to reside at the point of applying for benefits (and even, theoretically, those with settled status), could also be refused benefits if it were to be determined that they had no right to reside at the end of December 2021 and so no WA rights according to the government. At the time of writing the very concept of an ‘extra cohort’ without WA rights was being legally challenged (although, notably, the IMA was not challenging the concept).¹³ Such a concept would, if confirmed, raise the alarming possibility that many with pre-settled status – and conceivably even some with settled status – would not in fact be covered by the WA. The individuals concerned will be *entirely unaware* that they are in a situation which effectively means that they have no recourse to public funds in the UK until, that is, they seek to make a claim for such funds. Moreover, it will become

¹⁰ Williams. *Fratila* and *CG*. CPAG. February 2022.

<https://askcpag.org.uk/content/207616/pre-settled-still-unsettled>

¹¹ Destitute EU nationals with PSS can rely on EU Charter of Fundamental Rights to obtain Universal Credit. CPAG. February 2024.

<https://cpag.org.uk/welfare-rights/test-cases/test-case-updates/destitute-eu-nationals-pss-can-rely-eu-charter-fundamental-rights-obtain>

O'Brien. Memo: Pre-settled Status and benefits: C-709/20 *CG v the Department for Communities in Northern Ireland*. 15 September 2021

<https://www.eurighthub.york.ac.uk/blog/itzfizid6d8awrwaco1w6aggx1pfdi>

There were other cases in 2024 of successful challenges of discriminatory treatment towards those with pre-settled status: The3Million. Success! Court finds EU citizens with pre-settled status are eligible for housing assistance. 29 May 2024.

<https://the3million.org.uk/news/2024-05-29/success-court-finds-eu-citizens-pre-settled-status-are-eligible-housing-assistance>

¹² The3million – Written evidence (CIT0010)

<https://committees.parliament.uk/writtenevidence/37390/html/>

¹³ The3million. We're Going to Court to Defend EU citizens' rights to live in dignity. 30 January 2024.

increasingly complex over time for authorities and individuals to evidence to which cohort they belong.

4.2 A 'digital by default' application process

As to the process for applying for settled status, it was 'digital by default' and proved straightforward for many EU citizens (see Figure 1). But it did rely on a certain level of English language proficiency and digital literacy. For those able to rely on the automated checks (step 14 in Figure 1) to acquire settled status, this tended to be granted fairly quickly. For those who needed to upload further evidence to prove five years continuous residence (step 15 Figure 1) things could be more complicated (as discussed below). And in many cases more vulnerable EU citizens would have to supply such evidence because the automated checks (step 14 Figure 1) of DWP and HMRC databases (looking for evidence of regular work or benefits claims) often did not work. Notably, the Home Office had opted to exclude Working Tax Credit, Child Benefit and Child Tax Credit from the automated residence checks because it was thought that, "their payment does not provide reliable evidence of UK residence." The 2020 Home Office Equality Statement stated that women may be at "a particular disadvantage" because of those rules, "as they are more likely to be receiving these payments."¹⁴ Such a disadvantage extended to all vulnerable EU citizens in receipt of these benefits, including many Roma EU families.

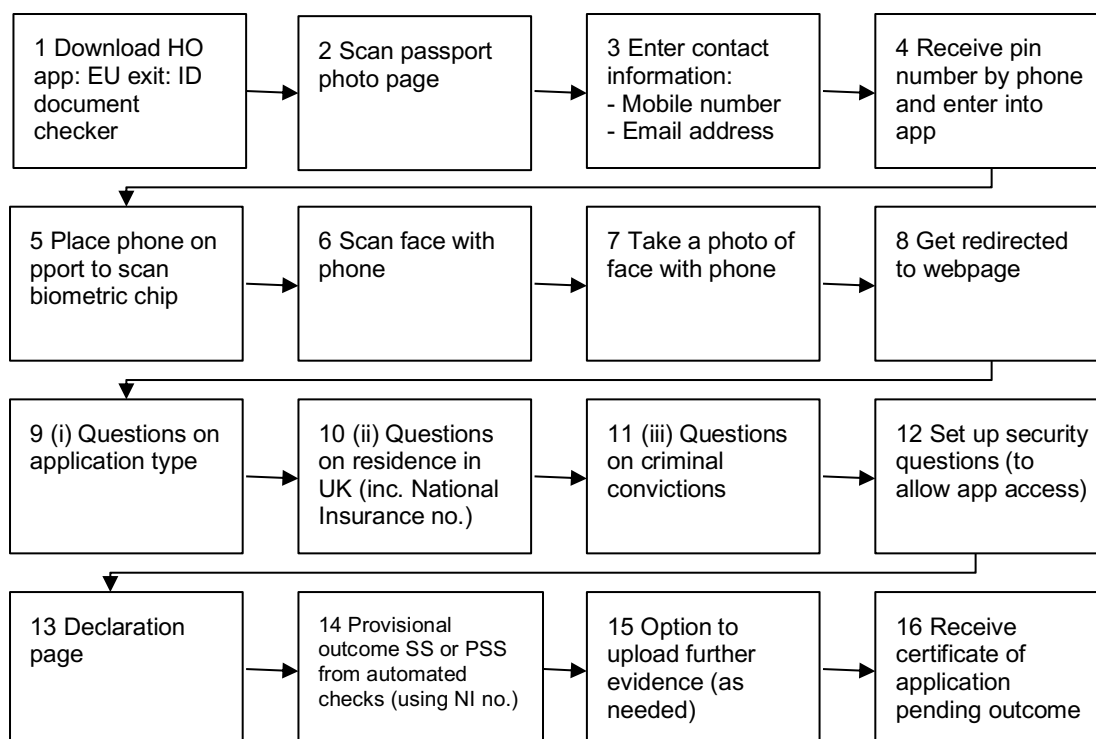


Figure 1. Applying for settled status

The cut off period for applying for status was 30 June 2021, although some flexibility was applied to late applications in accordance with the WA (Article 18(1d)), which invoked the importance of assessing whether there were 'reasonable grounds' for missing a deadline.

¹⁴ EU Settlement Scheme: policy equality statement. Home Office. November 2020. <https://www.gov.uk/government/publications/eu-settlement-scheme-policy-equality-statement>

Caseworker guidance suggested that ‘reasonable grounds’ for a late application would include a general lack of awareness of the scheme and case workers were encouraged to give the benefit of the doubt to late applicants. Between 1 July 2021 and 30 June 2023, 184 000 late applications were allowed (albeit not all of those would ultimately be successful).¹⁵ Those individuals were issued with certificates of application which allowed them to work in the UK pending the outcome of their application.

However, the permissive approach towards late applications changed from August 2023. A new two-step approach was introduced in which late applications would, in a first verification step, be assessed far more strictly and potentially rejected before a full eligibility assessment was undertaken.¹⁶ Indeed, new case worker guidance required far more detailed evidence to justify a late application. Notably, it was no longer possible to invoke a lack of awareness of the scheme in this context: “a person may state that they were unaware of the requirement to apply to the EU Settlement Scheme by the relevant deadline or that they failed to make an application by that deadline because they had no internet access, limited computer literacy or limited English language skills. These will generally *no longer be considered reasonable grounds* for their delay in making their application to the scheme.”¹⁷ The implicit HO justification for these changes seemed to be that significant and adequate efforts had been made to raise awareness of the scheme and nobody could any longer *reasonably* claim to be unaware of EUSS. Such a justification was, however, questionable with respect to vulnerable communities, as discussed below with reference to Roma EU citizens. These changes effectively made it more difficult for individuals to apply late. When their initial applications were rejected they had no recourse to appeal and often required higher tier legal advice to challenge such a decision. Notably, in mid-2024 the charity *Here for Good* was legally challenging this approach to late applications.¹⁸ They also produced guidance for those seeking to make late applications on behalf of individuals.¹⁹

In order to maintain their status, those with pre-settled status were initially required to submit a further EUSS application upon reaching 5 years continuous residence, which would, in principle, upgrade them to settled status. If they did not apply for settled status they risked losing their status. This policy was successfully challenged in the High Court by the IMA as a breach of the WA.²⁰ In response to the Court’s ruling, the government undertook, from late 2024, to automatically upgrade PSS to SS, where an individual’s digital records (HMRC records etc.) confirmed five years’ continuous residence (residence in the UK without spending more

¹⁵ Important changes to the way late EUSS applications are treated. Free Movement Blog. November 2023. <https://freemovement.org.uk/important-changes-to-the-way-late-euss-applications-are-treated/>

¹⁶ *ibid.*

¹⁷ Home Office. Guidance: EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members. https://assets.publishing.service.gov.uk/media/65a64d87640602000d3cb6fa/EU_Settlement_Scheme_EU_other_EEA_Swiss_citizens_and_family_members.pdf#page32

¹⁸ Here for Good. Permission granted in Here for Good’s NGO challenge. May 2024. <https://hereforgoodlaw.org/strategic-litigation/permission-granted-in-here-for-goods-ngo-challenge/#:~:text=Through%20our%20casework%2C%20Here%20for,applications%20late%20to%20the%20scheme>

¹⁹ Guide on submitting a late application under the EU settlement scheme <https://hereforgoodlaw.org/wp-content/uploads/2024/03/SAFE-project-Late-Application-Guidance.pdf>

²⁰ Independent Monitoring Authority successful in landmark High Court challenge against Home Office. 21 December 2022.

https://ima-citizensrights.org.uk/news_events/independent-monitoring-authority-successful-in-landmark-high-court-challenge-against-home-office/

than 180 days out of the UK in any 12 month period). However, as Costello and Barnard noted in 2022, “for many low paid migrant workers in precarious zero hours or informal employment contexts, or those not working, this digital footprint is not being generated.”²¹ The HO also undertook, from September 2023, to automatically apply a two-year extension for pre-settled status holders one month before their status expired. This was a welcome development, but it did not entirely solve the issue. In the short term, many of those whose pre-settled status was close to expiring encountered problems, as we discuss below. As a result, in May 2024 the government undertook to increase the automatic extension to pre-settled status to five years and removed the expiry date from the online accounts of those with pre-settled status. However, at the time of writing the government was also talking about the possibility of curtailing pre-settled status: if this policy were pursued it would likely involve HO case workers contacting pre-settled status holders and asking them to prove five-years continuous residence to upgrade to settled. Those that do not reply would risk losing their status.

Certain family members joining those in the UK with status were able to apply for status themselves, even if they moved to the UK after 2020. Those family members included: children, grandchildren or great-grandchildren under 21; spouses and unmarried partners where the relationship was durable and predated the end of December 2020; dependent children over 21; and dependent parents, grandparents and great-grandparents. As noted below, where it was necessary to prove a dependency or durable relationship this was very difficult for certain EU citizens where they lacked a digital footprint. Joining family members could come to the UK and apply to EUSS as a joining family member within 3 months of their arrival or, alternatively, apply for a joining family permit from outside the UK and come to the UK for 6 months (with a right to work) before applying for EUSS.

For children born after one or more of their parents had acquired settled status things were, in principle, easier as they would acquire British citizenship by birth and could not acquire settled status. However, the process for proving that status, including acquiring a British passport, for those children was not always straightforward for vulnerable EU citizens, including Roma.

4.3 A ‘digital only’ process for proving status

One particularly controversial aspect of the EUSS was the fact that EU citizens in the UK acquiring status were not issued with a physical residence document. This was in apparent accordance with the WA, which stated that the authorities should provide, “a document evidencing such status which *may be* in a digital form” (Article 18(1) emphasis added). However, no document, physical or digital was in fact issued to EU citizens. Rather, as Monique Hawkins of the 3million noted in oral evidence to a House of Lords committee: “it is not a digital status in the sense of being a digital document, which is what the withdrawal agreement stated. It is instead a very cumbersome *online process*” (see Figure 2).²²

²¹ Costello and Barnard. Kicking the can down the road? The continued precarity of EU pre-settled status. UKICE. 25 September 2023.
<https://ukandeu.ac.uk/kicking-the-can-down-the-road-the-continued-precariety-of-eu-pre-settled-status/>

²² House of Lords. Justice and Home Affairs Committee. Uncorrected oral evidence: Electronic border management systems. Tuesday 12 March 2024. 11.30 am.
<https://committees.parliament.uk/oralevidence/14476/html/>

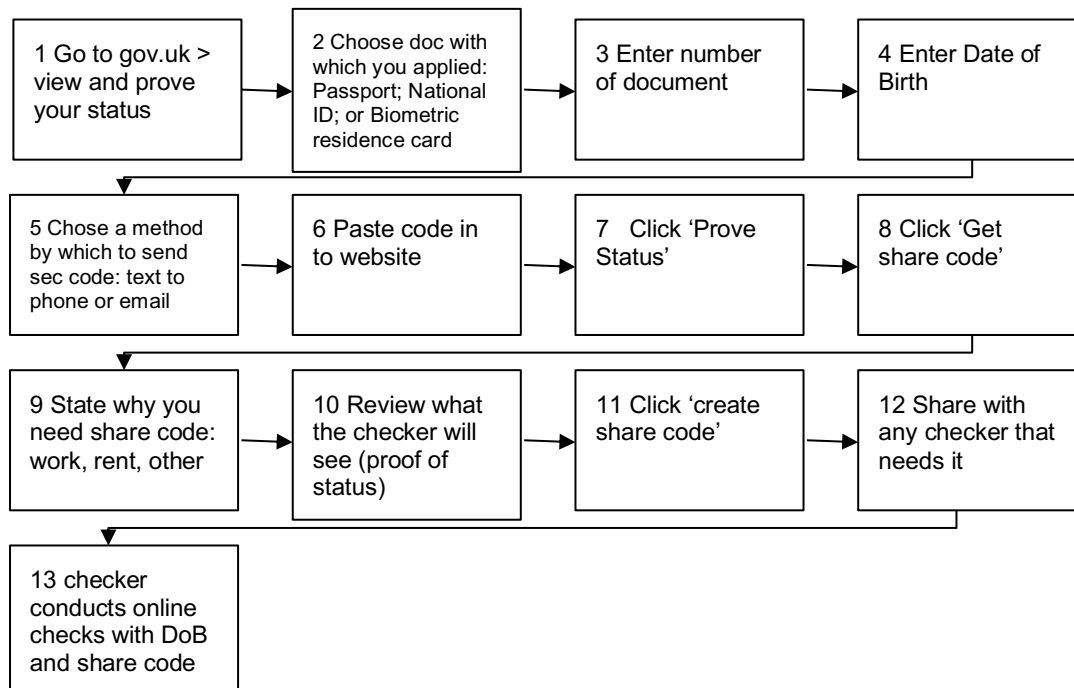


Figure 2: How to generate a share code

In practice this means that when asked for proof of status – for instance, by an employer, landlord or public service provider – EU citizens must provide their interlocutors with a ‘share code’ that can be accessed via their UK Visa and Immigration (UKVI) account. This requirement accorded with a government ‘digital by default’ strategy aimed at removing the need for physical documentation in the governance of migration.²³ While many people were able to navigate this fairly easily, a number of issues arose in relation to the digital only status. Some of these issues impacted all EU citizens indiscriminately, such as the all-too-frequent glitches in the system.²⁴ One notable example of such a glitch, which *could potentially* prevent an EU citizen from accessing a share code, was the phenomenon of ‘entangled statuses’, whereby an individual correctly logs in to the system but then sees either a different person’s status or a mixture of their personal information and someone else’s. In reply to an enquiry from *the3million* on this issue, the HO itself acknowledged that, “we have had share code issues reported to us by Account holders which have stemmed from a range of different technical glitches.” Other issues related to proving and using status impacted disproportionately on vulnerable groups with limited digital access and literacy, as discussed below with reference to Roma EU citizens. Notably, some legal analysts have claimed that such a system is indirectly discriminatory.²⁵

²³ Home Office. New Plan for Immigration: legal migration and border control. Updated 25 November 2022 <https://www.gov.uk/government/publications/new-plan-for-immigration-legal-migration-and-border-control-strategy/new-plan-for-immigration-legal-migration-and-border-control-accessible>

²⁴ the3million. Submission to Independent Monitoring Authority March 2022 Challenges around maintenance of UKVI. April 2022. <https://the3million.org.uk/sites/default/files/files/t3m-IMA-4-EUSS-maintenance-report-v2-08Apr2022.pdf>

Jablonowski. Citizens’ rights and computer glitches: is digital immigration fit for purpose? UK in a Changing Europe. 13 September 2023. <https://ukandeu.ac.uk/citizens-rights-and-computer-glitches-is-digital-immigration-status-fit-for-purpose/>

²⁵ Tomlinson and Welsh. Digital Immigration Status: A monitoring framework. Public Law Project Research Paper. <https://publiclawproject.org.uk/content/uploads/2020/10/PLP-Report-Digital-Immigration-Status.pdf>

5. Applying for status

Most EU citizens who wished to remain in the UK were technically able to navigate the EUSS, even if they often resented the post-Brexit changes.²⁶ But for more vulnerable EU citizens, including Roma, significant issues have arisen when it comes to both applying for (see Figure 1) and using (see Figure 2) their status.

The constitutive nature of the EUSS scheme ensured from the outset that vulnerable EU citizens with WA rights would be at risk of losing status and a right to reside legally in the UK.²⁷ Indeed, the nature and design of EUSS would potentially render already vulnerable EU citizens even more vulnerable. As one report on vulnerability in relation to the scheme noted, defining who may be vulnerable in the context of such a scheme is challenging.²⁸ They suggested that four overlapping categories of person might be particularly at risk: those who, for various reasons, were unaware of a need to apply; those unable to autonomously apply; those with limited capacity to complete the application; and those unable to assemble the necessary evidence.²⁹

A significant number of EU citizens in the UK were at risk of falling into at least one of those categories post-Brexit. As a 2020 EU Rights and Brexit Hub report noted: “official data estimates that there are 58,000 EU citizens over the age of 75 resident in the UK, 280,000 disabled EU citizens living in the UK, and 15,000 EU citizens with a mental health condition which limits their daily activity ‘a lot’ living in the UK”.³⁰ The government’s own 2018 ‘Strategy for handling vulnerability in the Settlement Scheme’ noted that, “between 5-10% of EU citizens already here could be regarded as vulnerable... However, this figure could rise to around 20% if language and literacy barriers [are] taken into account.”³¹

The government did take steps to support vulnerable EU citizens, as discussed in section 7 below. Roma nevertheless encountered a range of issues related to applying for EUSS and many of these issues were ongoing in summer 2024, nearly three years after the original

²⁶ Bueltmann. Experiences and impact of the EU settlement scheme. Report on the 3million Settled Status Survey.

<https://the3million.org.uk/sites/default/files/files/Experiences%20and%20impact%20of%20the%20EU%20Settlement%20Scheme%20%282019%29.pdf>

²⁷ O'Brien. Between the devil and the deep blue sea: vulnerable EU citizens cast adrift in the UK post-Brexit. *Common Market Law Review*. 58: 431–470, 2021.

²⁸ Jablonowski and Pinkowska. Vulnerability in the EU Settlement Scheme: looking back, going forward. A review of evidence from Law Centres’ casework. Law Centres Network. 21 July 2021.

https://assets.ctfassets.net/y26owwfe9yxn/4LvJkFN0Lsxrlo2CEfnH2T/7c718cea57ef4412483de645ab3207f5/Vulnerability_in_the_EU_Settlement_Scheme_LCN_report_21_Jul_2021_.pdf

Sumption and Fernandez-Reino. Unsettled Status – 2020: Which EU Citizens are at Risk of Failing to Secure their Rights after Brexit? *Migratio Observatory*. September 2020.

<https://migrationobservatory.ox.ac.uk/resources/reports/unsettled-status-2020/>

²⁹ *ibid.* p.12

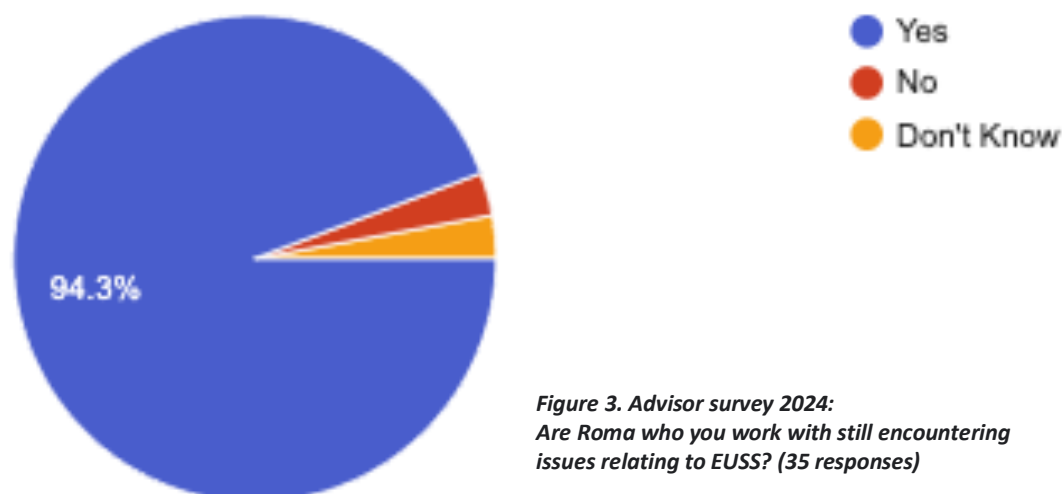
³⁰ EU Rights and Brexit Hub. EU Settlement Scheme: Barriers to Accessing Public Services for Vulnerable Adults.

<https://static1.squarespace.com/static/5f3aa00c8a9f0607ba8b4e98/t/60535bf1c3f8f541ec7ac894/1616075780091/EU+Rights+Hub+-+Vulnerable+Adults+Briefing.pdf> p.1

³¹ Neal. A further inspection of the EU Settlement Scheme July 2020 – March 2021. Independent Chief Inspector of Borders and Immigration. January 2022.

https://assets.publishing.service.gov.uk/media/61dee79dd3bf7f0549bf7d16/A_further_inspection_of_the_EU_Settlement_Scheme_July_2020_to_March_2021.pdf p.32

application deadline. Indeed, our survey of Roma support workers showed that 94% were still dealing with issues related to EUSS.



*Figure 3. Advisor survey 2024:
Are Roma who you work with still encountering
issues relating to EUSS? (35 responses)*

In the following sections we focus on five issues: awareness of EUSS and difficulties gathering evidence; applying for status for children (or, alternatively, proving their British nationality); issues related to applications for joining family members; those who are in the UK without status, either due to a failed application or a failed verification test after August 2023; and the aforementioned issue of upgrading from pre-settled to settled status.

5.1 Awareness of EUSS and evidence gaps

Roma EU citizens very often fell into one or more of the four above mentioned categories of vulnerability. As we show below, a lack of awareness of the scheme, issues relating to capacity and autonomy, and difficulties acquiring and submitting evidence, were all significant for many Roma. A substantial issue in the early years of the EUSS rollout related to a general lack of awareness of EUSS and of the need to actively apply to acquire status.³² As the RSG highlighted in 2020, “there are substantial barriers to Roma people gaining knowledge of and access to this system.” The most marginalised Roma – rough sleepers, children and, disproportionately, women – were particularly likely to fall through the cracks.

Roma are a notoriously ‘hard to reach’ group. In addition to widespread suspicion born out of historical marginalisation and a corresponding lack of trust in authorities (in home states and in the UK), Roma in the UK faced language barriers, very low educational attainment relative to other EU citizens, and were not typically well integrated in broader local communities or national culture. Those advising Roma repeatedly highlighted that language barriers were only part of the problem. Limited levels of understanding and trust were hugely significant when it came to raising awareness of the need to acquire status. It was also

³² Brown. Falling through the gaps: the EU Settlement Scheme and the case of Roma communities in the UK Report on an All-Party Parliamentary Group event held on the 17 November 2020. January 2021. <https://www.gypsy-traveller.org/wp-content/uploads/2021/01/SM03-EUSS-Report.pdf>

difficult, once contact had been made, to maintain that contact, particularly for higher level advisors who were not as well embedded in local communities.

That said, the EU and, in particular, relevant national embassies did attempt to raise awareness of EUSS via social media. And at the local level, networks of community organisers did have some success in assisting vulnerable EU citizens, including Roma, to register for EUSS. Roma children were also able to inform their parents of the scheme in some instances. Indeed, as a report by Liverpool University pointed out, “contrary to the presumption on which the EUSS operates - that parents will manage their children’s EUSS registration - evidence suggests that low levels of technical, language and literacy skills and resources among many Roma parents and carers mean that they are often dependent on their children to navigate such processes.”³³ It was problematic, however, to expect often very young children to engage with these complex bureaucratic processes on behalf of their families.³⁴ But it was often via schools that word spread about the EUSS and, given their better English language skills, children were often better equipped to complete applications than their older relatives.

A 2020 RSG report, noted that, “by the end of February 2020, over 7,000 had been informed of the scheme of whom approximately 3,000 were supported to make applications. Whilst these numbers only reflect information provided by one fifth of the organisations currently working with Roma, they provide a worrying indication of the number of Roma registrations still outstanding: potentially well in excess of 150,000” (RSG 2020). As recently as mid-2024, 97% of Roma support workers surveyed were still dealing with cases of Roma EU citizens without status and this was reported as the most common issue by around half of those workers (see Figures 4 and 5) (although it was difficult to know how many of those Roma without status were eligible - see section 5.4).

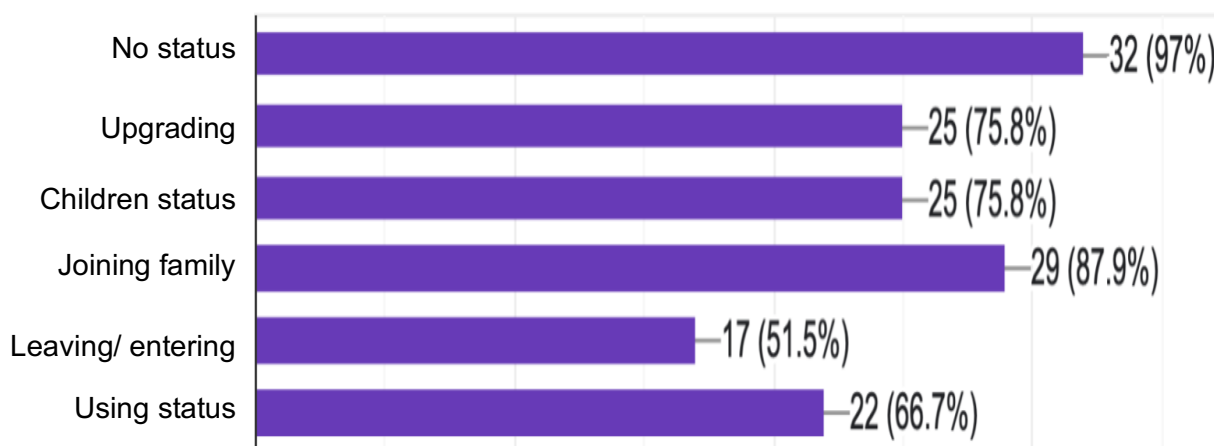


Figure 4. Advisor survey 2024: Which issues are you still encountering in relation to Roma and EUSS? (33 responses)

³³ Stalford and Humphreys. EU Roma Children and the EU Settled Status Scheme: Awareness, Access and Eligibility. Brexit Research by the European Childrens’ Rights Unit. University of Liverpool. Research Briefing. September 2020. https://www.liverpool.ac.uk/media/livacuk/law/2-research/ecru/EU_Roma_Children_and_the_EU_Settled_Status_Scheme_-_September_2020.pdf p.7

³⁴ Stalford in Brown. Falling through the gaps: the EU Settlement Scheme and the case of Roma communities in the UK Report on an All-Party Parliamentary Group event held on the 17 November 2020. January 2021. <https://www.gypsy-traveller.org/wp-content/uploads/2021/01/SM03-EUSS-Report.pdf>

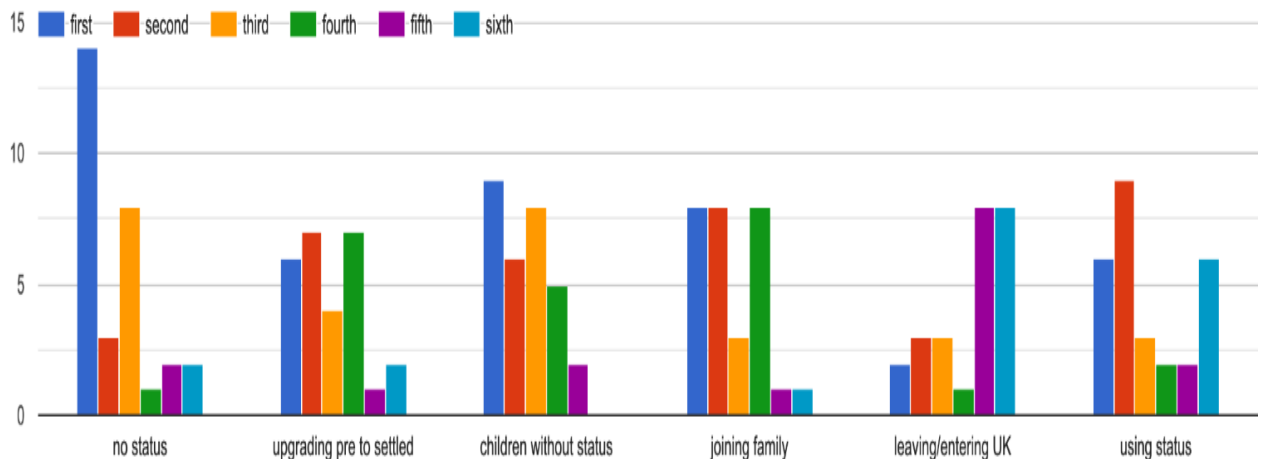


Figure 5: Advisor survey 2024: Please rank these issues: first=most common and fifth=least common

The RSG had in 2018 warned that only around 3% of Roma would be able to complete and submit an EUSS application without support. Limited digital literacy was a significant issue at the point of having to make an application:

if someone that has limited IT skill[s] and someone doesn't speak English, you can't, to put it plainly, access it. You do need to have someone that helps you. If you do the online application, that's all in English. If you do the paper application as well, that's all in English. I think as well that what we've seen... (national legal advisor 1)

This situation was compounded by the fact that the period in which EU citizens were supposed to be applying to EUSS coincided with the covid lockdowns. As the same EUSS legal advisor noted:

before 2020, the amount of events that [organisations] in the sector were doing to outreach and get those communities, especially those communities that are hard to reach such as the Roma community, were quite present and quite frequent. Then with the pandemic, of course, that couldn't happen but the pandemic happened at the same time – a very important landmark for the EUSS which was 1st December 2020 and June 2021. ... for sure, there was a huge period of time where they just couldn't do it... I know that some people got very creative with Zoom and Facebook but you still only reach a certain amount of people ... before it was much more outreach in the community and then spread the word in that sense. (national EUSS advisor 1)

This was also the experience locally in Sheffield:

Pre-lockdown, we rented places like libraries. So, we worked at Page Hall Library, the Central Library in Sheffield, then we were in Firvale Community Hub and we were in Darnall Library... and then obviously lockdown came and we were working from home. (Sheffield EUSS advisor 1)

The tireless work of overstretched local actors – some of them GFOs, some of them not – did lead to many thousands of Roma being registered for EUSS. But even where there was some awareness of EUSS, the lack of a digital footprint meant that Roma struggled to evidence their residence, in some cases even if they had in fact been long-term residents in the UK and this was a particularly acute issue for the long-term homeless population.

The burden to prove five or more years of residence prior to the end of 2020 in order to acquire settled (rather than pre-settled) status, fell heavily on the applicant. For some Roma, as for EU citizens more generally, this was straightforward, particularly where they had a clear digital footprint that could be automatically checked (for instance, in the case of National Insurance contributions) or drawn upon to gather evidence that could be easily uploaded. A support worker in Sheffield noted that some of her clients were able to rely on their history of receiving tax credits, although they often had to be told that this evidence could be used when they were prompted for further evidence. Notably, it was often easier for Roma men to evidence residence than women, given that they were more likely to have engaged in formal employment: “if we get ... applications where they don't [need] additional evidence, it's usually men who worked here” (Sheffield EUSS advisor 1). This made it more likely that women would receive pre-settled rather than settled status.

Many Roma struggled with the Home Office system for uploading supplementary evidence, which created limits on the evidence that individuals were able to submit: “[the] Home Office only lets you upload ten documents. So, they wanted to prove, you know, five years or the fact that the person's lived here before 2020, but they only want ten documents” (Sheffield EUSS advisor 1). For many the evidence that they were able to provide – even if they had more in their possession – was thereafter deemed insufficient and applications were rejected or applicants only granted pre-settled status. Pandemic lockdowns also had an adverse impact on the ability of many Roma to demonstrate five years’ residence. In Glasgow, the pandemic “had a really serious effect on their ability to earn because, you know, like car wash and cleaning and restaurant work and these kinds of things really suffered. So, there are big gaps in there... in terms of employment records [or in terms of] money being regularly paid” (Glasgow EUSS advisor 1).

The lack of a digital footprint, coupled with the aforementioned barriers to providing evidence, meant that the majority of Roma received pre-settled rather than settled status, often in situations where they ought to have been entitled to the latter. As one advisor noted:

The biggest issue with the Roma community is needing documentation and being awarded the wrong EU settlement status because of IT knowledge of uploading documents... [T]hey have been in the UK for over 10 years and were granted only pre-settled status. [They are] asking for evidence they are not able to provide [because they are] living with family and not having Bills on their names (national EUSS advisor 2)

The upshot, as RSG highlighted in 2022, is that “Roma were more likely to receive pre-settled status in comparison with their non-Roma counterparts. Some 62% of Roma people had received pre-settled status in comparison with 41% of non-Roma people.”³⁵

This reality sowed the seeds for the recurrence of issues that were encountered in the first wave of applications. Those with pre-settled status would have to understand the need to apply to upgrade to settled status. They would need to have an understanding of when they became eligible (after five years of residence, *not* five years after the granting of PSS). They would then need to navigate a further application process in order to upgrade their status to settled. This is one of the main reasons why, even in summer 2024 – three years after the original application deadline – Roma EU citizens were still struggling to engage with EUSS application processes (see also section 5.5).

The abovementioned tougher approach to late applications from August 2023 also adversely impacted many Roma. Some of those clearly had no right to status (see section 5.4) but some who encountered difficulties at the verification stage had a legitimate entitlement to status. Given the general lack of awareness among Roma populations, like other EU citizens in that position, they were often, “applying late [only] when their employer or landlord require[d] them to produce a share code to prove their status.”³⁶ But in the case of Roma, that request may not have come at all given that they were often working in the informal/ grey economy. Another common reason for a rejected late application was an earlier failed application, but in some cases we know that the initial application had failed only due to the applicant receiving poor advice, sometimes from an ill-informed or unscrupulous advisor (see section 7.). As such, it is certainly likely that many Roma EU citizens who did in fact have WA rights had their applications refused at the first step of the post-August 2023 process for dealing with late applicants. Without accessible local support or legal advice (see section 7) it was difficult to see how those decisions might be successfully overturned (national EUSS advisor 2).

Moreover, we received reports that some late Roma applicants were being asked to prove that they had been EU nationals before 2021 (for instance, where they had a recently issued passport). This was extremely difficult for the individuals concerned to prove as certain embassies do not routinely return old passports or ID documents. National level advisors and EU citizens’ advocates locally in Sheffield and Glasgow confirmed that this practice had become relatively common in 2023/4. Notably, in Glasgow, this had even happened to clients seeking to upgrade from pre-settled to settled status (see section 5.5). In such instances, the burden to prove pre-2021 nationality should in principle be on the Home Office, not the applicant. Moreover, Article 18 of the WA should be applied where necessary in such cases. That article makes clear that “a principle of evidential flexibility will apply, enabling caseworkers to exercise discretion in favour of the applicant.”

³⁵ Brown. Roma communities in the UK: the EU Settlement Scheme and post-grace period situation Report on an All-Party Parliamentary Group on Gypsies, Travellers and Roma roundtable event held on 29 March 2022. August 2022.

<https://www.gypsy-traveller.org/wp-content/uploads/2022/12/SM04-EUSS-Report-2022-FINAL.pdf>

³⁶ Costello and Barnard. One Year After the Deadline: The EU Settlement Scheme. 30 June 2022. <https://ukandeu.ac.uk/one-year-after-the-deadline-the-eu-settlement-scheme/>

However, this flexible approach appeared to often not be taken after August 2023. Advisors reported that evidence which had been accepted prior to August 2023 was no longer being considered to be sufficient by many case workers. Moreover, whereas a number of advisors reported positive experiences of engaging with the EUSS resolution centre prior to this date, one advisor noted that their more recent experiences was, in many cases, far less positive (Glasgow advisor 2).

5.2 Children's status

Children born in the UK to parents before Brexit (between roughly 2006 and 2021) who were permanent residents – i.e. lived in the UK for five years as a job-seeker, worker, self-employed, self-sufficient or student – or had a non-EUSS form of indefinite leave to remain (see section 6.4), were British by birth. Similarly, children born in the UK to parents who had *already acquired* settled status in the period following the launch of EUSS were also British by birth. A significant number of Roma children resident in the UK post-Brexit are therefore very likely to be British. Others would need to engage with EUSS. Children born to a parent without pre-Brexit permanent residence rights before the parent acquired either pre-settled or settled status, and children born to a parent who had already acquired pre-settled status, would need their parents/ families to *actively apply* to the EUSS scheme for them to have immigration status in the UK. That child should, in principle, acquire the same status as the parent). Children born *outside of the UK* to parents with either pre-settled or settled status would also need their parents/ families to actively apply to the EUSS scheme and again, should obtain the same status as their parents.

This is complex terrain and not easy to navigate for any EU citizen, let alone often far more vulnerable Roma populations with limited English language. It is likely that many Roma children born before Brexit to parents who had long lived in the UK would not qualify for British citizenship because their parents would struggle to prove their permanent residence rights, but some parents may have sufficient evidence to do so. Moreover, a significant number of Roma children born in the UK to one parent who had already acquired settled status will be British nationals automatically. However, it was clear from our interviews with frontline workers and information sessions with Roma that families were often unaware even of the possibility that their children may be British nationals. Moreover, the local authorities with whom they were interacting were often similarly unaware of such a possibility (as discussed further below, there was a growing tendency for such authorities to request proof of settled status from all EU citizens, even where they did not have or need that status). Finally, we know that even where Roma families were aware that their child was British, obtaining a British passport for children was not straightforward due to the strict counter-signatory rules in the UK, which require a 'professional' to certify an individual's identity on applications. Roma frequently reported difficulties in finding a counter-signatory who was on the appropriate list of 'professionals' and had known them for a sufficient period of time.

Given the large percentage of Roma with pre-settled status, or whose children were born outside the UK, a significant number fell into the category of those who needed to (or, in many cases, still need to) apply to the EUSS for their children. However, it was also clear from our interviews that in many cases families were – just as they had been unaware of EUSS

initially – unaware of the need to apply for status for their children. This was confirmed by the 2020 RSG survey, which estimated that 15-25% of Roma children were not making applications. In mid-2024 almost 80% of Roma support workers surveyed responded that ‘children without status’ was an issue that they were still regularly encountering, and almost a third of those workers reported this as the most common issue they faced (see Figures 4 and 5).

This issue was arising in part due to a lack of awareness. But it was also because of the administrative obstacles that they encountered. Many Roma children did not, in the initial phase of EUSS, have the necessary valid passports – because they had been born in the UK – needed to apply via the online system. Local support workers in Sheffield noted that they did initially try to work with Roma to get appointments at the Slovak embassy to obtain passports for such children, but this was tough for many Roma given the cost of travelling to London to visit the embassy: “we call[ed] [the] Home Office saying, ‘This family’, for example, ‘haven’t got passports, they’ve got five children, they can’t afford to go to London’” (Sheffield EUSS advisor 1). However, despite the fact that such individuals could in theory use a paper form to apply without a passport, this was being strongly discouraged by the Home Office in the early phases of the EUSS rollout. Roma advocates would have to work hard to justify the use of a paper form:

quite often we had to have a letter .. For example, I supported a few families through Shelter [and] I had to ask Shelter to write me a letter [explaining] that these families literally haven’t got enough finances to go to London. And based on this, then I could get the paper form ... but they needed to know, prove, why the person is not able to go and get the appointment [with the embassy and] get the passport (Sheffield EUSS advisor 1)

The Home Office did begin to allow paper applications without the need for justification, but it only did so a few months before the initial deadline for EUSS applications, which was June 2021. This meant that many GFOs and other organisations supporting Roma (and other vulnerable EU citizens) were scrambling to apply in paper format in the period just before the deadline: as one worker noted, “we were all working 12 hours a day or more” (Sheffield EUSS advisor 1). When applications were made in paper format it often took much longer for certificates of applications to be issued – crucial in terms of proving status – and for outcomes to be reached. As one higher tier advisor summarised: “that paper application route is not as smooth as the online application process.” (national EUSS advisor 1).

For Roma, limited knowledge coupled with these Home Office barriers, significantly contributed to a widespread failure to acquire status for children who needed it. One Sheffield based advisor noted, in early 2023, that in many cases, Slovak Roma in the city had “left off their children”, but only realised that it was an issue at the point of trying to claim benefits. For that particular advisor, “the vast majority [of Roma cases in early 2023] were children that [had] been missed off in terms of applications” (Sheffield EUSS advisor 1). Notably, a year later, in early 2024, Sheffield Children’s Hospital informed the RSG that over 40% of those families that were eligible to be charged for NHS treatment in the city due to their children not having evidenced status at the point of treatment or thereafter, were Slovak families (meaning, in the Sheffield context, nearly all Roma, either without EUSS status or unable to prove British citizenship).

EU citizen campaigners had successfully pressed the government to ensure that those waiting for the outcome of an EUSS application (i.e. those with a certificate of application) should not be charged for healthcare, regardless of the outcome of their application. But they, and the EU, were unsuccessful in making the case that those who had successfully applied to EUSS *following* the incursion of healthcare charges, should have invoices cancelled or payments refunded. At the time of writing, the IMA supported the government's reading of the WA on this point.³⁷ Things were in principle easier for children born in the UK to at least one parent with settled status, who automatically acquired British nationality at birth. However, as noted above, the burden was on families and local authorities to prove British citizenship and, as noted, they were often unaware that their child could be British (until a failed application to EUSS) and getting British passports for such children was problematic for Roma.

5.3 Joining family members

Joining family members also risked falling through the gaps. Rules on joining family (see section 4) were particularly important for Roma given a greater tendency than most other A2/A8 EU citizens to establish themselves in the UK as family units. Indeed, many Roma joined family members in the UK both before and after the December 2020 cut off. Our research showed, however, that there was a lack of awareness of the potential problems of coming to the UK after that time and limited knowledge of who might constitute a family member within the rules. As one Sheffield community worker explained:

they still want to come and work here and I don't know whether they understand Brexit. I know there [are] still a lot of famil[ies] from Slovakia wanting to come here and they were amazed when I said, actually, you know, 'You are only eligible for the scheme if you've lived here before 2020' (Sheffield EUSS advisor 1)

Similarly, a higher level Sheffield based advisor noted that, "in one instance a client wanted to apply as a dependent of an adult sibling, having just recently entered the UK as a visitor ... They had to be advised appropriately [that they were not eligible]" (Sheffield EUSS advisor 2). Indeed, a number of advisors noted that potentially significant numbers of Roma were entering as visitors, largely due to a lack of awareness of the rules and misconceptions about who qualified as a family member (an issue likely to not be unique to Roma EU citizens). In many cases joining family members were emulating family members who had moved to the UK before the end of 2020, unaware that their right to do so had been significantly curtailed.

More than 80% of support workers that we surveyed reported that they were encountering the issue of joining family members in their interactions with Roma, with over half citing this as one of the top three most common issues (see Figures 4 and 5). This phenomenon almost

³⁷ Letter from the3million and others re: NHS Charging Regulations for late applicants to the EU Settlement Scheme. 30 June 2022. <https://the3million.org.uk/sites/default/files/documents/t3m-letter-DHSC-HO-NHSCchargingLateApplicants-30Jun2022.pdf>
Home Office Reply: <https://the3million.org.uk/sites/default/files/documents/DHSC-reply-t3m-NHSCchargingLateApplicants-07Sep2022.pdf>

certainly contributed to the aforementioned high number of cases reported by support workers of individuals without status seeking support, still in mid-2024.

Proving dependency of joining family members – children over 21 and elderly parents or grandparents – was a particular problem for Roma. As one senior legal advisor noted,

dependency has to be medical or financial. But the financial side is so difficult to comply with. Its absolutely ridiculous.... They have to see money transfer(s) from the sponsor to the applicant, which... the people usually don't do because they live together.. The applicants don't have any bills. They don't have any money. They don't have bank accounts because they don't have full immigration status (national EUSS advisor 2).

We know that many Roma work in the grey labour market and in a cash economy (i.e. without a digital trail); we know that many Roma have to rely on others to facilitate money transfers (i.e. they are not always making transfers in their own names); and, as noted above and below (section 6.1), we know that many Roma have limited digital skills and literacy in general. All of these factors make it difficult for Roma to demonstrate a dependency. As a community worker in Glasgow noted, “with dependency on a family member, as an extended family member that's quite hard to, you know... [it] might be legitimate, but it's quite hard to actually evidence” (Glasgow EUSS advisor 1).

Such difficulties seemed to be recognised in some cases before June 2021. One advisor noted, for instance, that decision makers would, before this date, generally just accept that a child over 21 was dependent on their parents based on a declaration (Glasgow EUSS advisor 2). After that date there was a need to provide detailed evidence of such dependency, usually for a 6 month period preceding the application. It was not possible to demonstrate that 6 months of dependency (or certainly not in the UK) when the joining family member who had come to the UK was, as noted, expected to apply as a joining family member within 3 months of their arrival. While in principle joining family members could also come to the UK for 6 months using a family permit (see section 4), Roma were not using this route. This was primarily because it required them to visit a UK visa application centre in or near their home country and those were not easily accessible to most Roma. It is notable, for instance, that there is not a single centre in Slovakia.

Moreover, while a financial dependency was most often proven by showing regular bank transfers, it is notable that in one case reported to us, a monthly £100 transfer was not considered sufficient. As for proving a medical dependency, it was reported that in some cases a doctor's 'fit note' – declaring an individual to be unfit to work – was not accepted (Glasgow EUSS advisor 2).

Joining partners or spouses encountered particular difficulties in trying to prove a durable relationship that dated back well before the December 2020 cut off date. As one advisor noted, “they want two years prior to 2020.. And they want proof of a durable relationship in a sense of a joint bank account, a joint tenancy agreement, a joint mortgage” (national EUSS advisor 2). This was very difficult for many Roma due to the socio-economic conditions in their countries of origin. They would very often not have a bank account; rental agreements are not common in many of the areas where Roma reside; and very few would

have mortgages due to their often insecure employment. Moreover, they may have resided with parents or extended families in both their countries of origin and in the UK and so their names would not necessarily appear on relevant forms of documentation. It is notable that cultural understandings of marriage are also distinct: Roma may consider themselves to be married following informal ceremonies or even as a result of periods of cohabitation, but would not have proof of a 'legal' marriage, such as a marriage certificate.

As with applying for EUSS then, the lack of a clear digital footprint was again a significant impediment for Roma. In this instance, it meant that family members struggled to prove a dependency and partners struggled to prove a durable relationship. Such individuals would therefore often find that their applications were unsuccessful. This was still a common issue for Roma in 2024: it arose repeatedly during our information sessions and advisors frequently highlighted it as a recurrent issue. Moreover, some advisors reported that the evidentiary bar had been raised for proving a durable relationship after August 2023. For instance, they noted that dated photographic evidence which had previously been admissible was no longer being accepted by case workers (Glasgow EUSS advisor 2).

Advisors noted that they were proactively supporting individuals to establish a digital footprint, helping them to set up bank accounts, establish bank transfers, to ensure that utilities bills listed all relevant residents and so forth. This was time consuming work for which focused EUSS funding was significantly diminished by 2024 (see section 7).

Even where someone had been successfully sponsored by a family member, issues commonly arose when they were not allowed – because the rules prohibit it – to sponsor another family member. Again, this was a particular issue for Roma given the preference to often migrate as extended families.

5.4 Roma ineligible for status

As noted, nearly all of the Roma support workers that we surveyed said that they were still dealing with cases of Roma without status in 2024. As noted, many of their clients – particularly those resident in the UK before 2020 and some of their joining family members – would certainly still be eligible for status, although significant numbers of those individuals would encounter difficulties proving that eligibility.

But it was also clear, especially from our interviews, that some Roma EU citizens in the UK, particularly among those arriving after the end of 2020, would not be eligible for status (although this is very difficult to quantify for Roma, or any other EU citizen).

Our information sessions and other contacts with Roma revealed that many Roma – even those arriving after 2020 – had very limited knowledge of EUSS, including the differences between a certificate of application, pre-settled and settled status. Many advisors noted that some clients – especially those with limited education who had relied on others to apply for them – were unaware that their certificate of application only granted them temporary rights and the rejection of their application came as a genuine shock. It is impossible to quantify the numbers of Roma whose rights expired following the rejection of a settled status application given a lack of ethnicity data, but our interviewees suggested that at least a significant number

of Roma were in this situation. After August 2023, these late applicants were, as noted above, often rejected earlier (rightly or wrongly) at the new eligibility stage in the process.

Another group of Roma without status and struggling to acquire it were new (post-2020) partners (often women) joining individuals with status (often men) in the UK. They were also usually unaware that they had no status and no prospect of easily acquiring it via EUSS. They often assumed that their marriage/partnership would confer upon them a status in the UK. As a Glasgow community worker noted, such individuals often had, “babies or young children who [had] status” but were themselves “living in fear of removal with no access to legal work or benefits. Reports [suggest] some are begging, vulnerable to exploitation and domestic violence” (Glasgow EUSS advisor 1). One frontline Roma worker expressed the concern that some pregnant Roma women in this situation were not engaging with NHS maternity services for fear of incurring charges (Sheffield EUSS advisor 3) (although, notably, this was not an issue in Scotland, where individuals engaging with the NHS were not being asked to prove their migration status (Glasgow EUSS advisor 2)).

Routes to status outside of EUSS – particularly the so-called family member/ ‘appendix FM’ route – were theoretically possible, but not straightforward, for most of these individuals to navigate. Tough conditions around minimum income – which increased from £18 600 to £29 000 in April 2024 – made it very difficult for most Roma to pursue that route. Many others have drawn attention to the discriminatory nature of these rules.³⁸ However, there was still hope for some in this position. For those with a British child (see section 5.2), or a child who had lived in the UK for 7 years, the income requirement – as well as the requirement to speak English – might be waived. And even where the child was not British it was at least possible to attempt to rely on Article 8 ECHR to acquire an initial temporary leave to remain. Crucially, however, pursuing such complex legal routes would in nearly all cases require a higher level of legal support that was in short supply in 2024 (see section 7).

It was impossible to know how many Roma without status, and unlikely to acquire it, would continue to reside in the UK. But it is likely that many would stay regardless, particularly those in marriages and with family in the UK. As a Glasgow support worker noted: “I can still see why people are making a choice to, you know, to come to a place where they can work and get money in their pockets and get by, regardless of the, you know, the niceties of immigration law as they might see them” (Glasgow EUSS advisor 1). In many instances Roma would also have very little to return to in their countries of origin. As one national Roma legal advocate explained:

people were telling them, ‘Oh but you’ll be alright - just move to England’. They sell everything in their countr[ies] of origin and they move with the whole families here and then they have really big difficulties to actually get the status and they don’t get it. So, they [actually have] nowhere to go... because they don’t have anything in [their] countr[ies] of origin. They don’t have family there, they don’t have any belongings there anymore, they don’t have [a] house. Nothing. (national EUSS advisor 2)

³⁸ Partner and Spousal Visas: Minimum Income. Debated 23 April 2024. <https://hansard.parliament.uk/commons/2024-04-23/debates/197A4BF5-2D70-4087-9ECC-479F740A7C10/PartnerAndSpousalVisasMinimumIncome>

A Sheffield based community worker, expressed concerns about what this would mean for such individuals: “it's always worried me, that there [are] going to be ... destitute people now because, you know, they are allowed to cross the border ... But actually at some point they're going to have their application rejected and they're renting [a] house, they're working... kids in school. So, what are they supposed to do now?” (Sheffield EUSS advisor 1).

5.5 Upgrading from pre-settled to settled status

The aforementioned ruling in favour of the IMA and against the government's policy of removing status from those with pre-settled who had failed to apply for settled after five years of continuous residence, was certainly beneficial for Roma. It removed one potential cliff-edge as (as noted in section 4) five-year extensions to pre-settled would be automatically applied. Moreover, at least some Roma – for instance those in regular formal work – would likely benefit from the automatic upgrade to settled status in late 2024 (although inconsistent HMRC records could mean that some with regular work histories would still not benefit from this process – Glasgow EUSS advisor 2). Given the common tendency to change email accounts and phone numbers – discussed in section 6.2 below – even these relatively fortunate individuals may not be aware when they are upgraded.

However, for many more, upgrading status from pre-settled to settled remained, as for other vulnerable EU citizens, a significant hurdle for Roma to overcome. Indeed, just as they were unaware of EUSS in 2019/2020, so they were often unaware of the need to upgrade to settled. A 2022 RSG London survey found that around 70% of Roma didn't know what to do and our 2024 information sessions in London, Sheffield and Rotherham revealed that around 40% still knew nothing or very little about upgrading. Given the extent to which they had relied on support from others when acquiring their pre-settled status, raising awareness of the need to upgrade was always going to be a challenge.

Such support was still being provided in 2024 where possible. A Glasgow community worker noted that, “We continue to support people with pre-settled status to save settled status residence evidence safely electronically for future settled status applications. [And] we help people with IT, literacy and language support/access needs to scan passports and upload residence or relationship evidence etc for settled status applications” (Glasgow EUSS advisor 1). Often an attempt to upgrade to settled status would follow from a refusal of benefits. For instance, a Sheffield community worker noted that: “I've had a lot of people wanting the settled status because they've got pre-settled and they probably got pre-settled because they couldn't provide enough evidence before, so they just got pre-settled. And now it's becoming a problem and they try to apply for Universal Credit [UC]. So, now they're coming to me for help with the settled status” (Sheffield EUSS advisor 1). This was an ongoing issue in 2024 in the context of individuals being moved from legacy benefits to UC (Sheffield EUSS advisor 2). It was possible then that more and more Roma would be prompted to consider upgrading status only at the point at which they were refused UC.

The process for upgrading could be an onerous one given the need to once more provide evidence, in this case demonstrating five years 'continuous residence'. We heard reports of significant numbers of Roma who had not understood the need to maintain continuous residence and left the UK for longer than 180 days in a one year period (in many cases during

covid) and would struggle to acquire settled status without being able to justify their absence. Even those who had not broken any rules were struggling to prove continuity of residence. This struggle to produce evidence was often as much of a problem for Roma after five years residence as it was at the point of their original application (see section 5.1). Indeed, support workers were having to work hard with clients and think creatively in order to gather evidence of residence from a range of sources. In mid-2024 78% of community workers that we surveyed were actively supporting Roma with upgrading (see Figure 4).

It was noted that, in the context of upgrading, the evidentiary bar had been significantly raised (particularly, it seemed to many, after August 2023). For instance, in mid-2024 one support worker in Glasgow highlighted that, “it used to be possible to show tenancy agreements, but it’s not possible now... they want rent payments to a bank account.” Similarly, tax credit letters that would have previously been accepted as proof of an entire year’s residence were only being accepted as proof of a single month’s residence” (Glasgow EUSS advisor 2).

There was an apparent concern that such letters did not confirm that individuals had maintained a continuous residency. However, it is notable that similar council tax letters were still being accepted as proof of an entire year’s residence. Advisors also noted that certain payslips that would previously have been accepted, were now being rejected by case workers. This was particularly the case where payslips were unverifiable by case workers, for instance, because they did not include National Insurance numbers. Whereas in the past the benefit of the doubt had been given to applicants, there now seemed to be an implicit assumption that such payslips were fraudulent. However, this advisor knew that in many such cases individuals had in fact been in work (albeit often precarious) and the fault for any payslip errors lay with the employer. Within this broadly much tougher context, there was also a reported inconsistency between HO decision makers. For instance, one support worker noted that “some children seeking to upgrade status had to prove they were here before 2020 [but] in many [other] cases that were the same, no evidence was requested” (Glasgow EUSS advisor 2).

Some individuals were also being asked to prove that they had been an EU national since before 2021. In one such case, a client who could produce a current Romanian passport, a birth certificate showing country of birth, and passports covering the period 2019-2021, had their upgrade application to settled status refused due to a one year gap in their proof of nationality between 2021 and 2022 (Glasgow EUSS advisor 2).

Many advisors concluded that the ‘hostile environment’ applied to migrants in the UK had been extended to EU migrants without status – but in many cases, in principle, eligible for status – after August 2023. Some was noted that this shift in approach may also have been due to a change in the composition of HO decisions makers. As individuals from wider immigration teams were reassigned to deal with EUSS cases they may have brought with them a ‘refusal culture’.

As a result of a raised evidential bar, many Roma had their initial applications to upgrade rejected. In practice that required many Roma to provide formal legal witness statements/ personal statements explaining gaps in their evidence trail and that, in turn, often required

them to access higher level legal advice (national EUSS advisor 2). It also meant that many Roma would be subject to the automatic five-year extension of pre-settled status. However, it was still unclear in mid-2024 what would happen to those Roma beyond that five-year period if they were still not able to prove five year's continuous residence. As outlined in section 3, the HO was at the time of writing, considering contacting all those with pre-settled to prompt them to upgrade, with a threat of curtailing status if they did not reply. For all the reasons enunciated above – in particular, limited digital literacy and changing contact details – it was very possible that many Roma would not receive these messages and risk (unknown to them) losing status.

There remained in 2024 an acute risk that many individuals could face a status cliff edge or lose status at some point in the future. In many cases they will have been physically and legally resident in the UK for several years at that point – but unable to prove it, or unaware of a need to prove it – especially in a context where very little free advice and legal support will be available (see section 7 below).

As noted, for a range of reasons, there are in the years to come, likely to be thousands – perhaps tens of thousands – of Roma EU citizens resident in the UK without status or with an insecure status:

- Some will have an EUSS status but disputed WA rights, for instance, due to being part of the so-called 'extra cohort'.
- Some will have no EUSS status, but clearly have WA rights.
- Some will have no EUSS status and no WA rights, but may be eligible for another form of immigration status.
- Some will have no status, no WA rights, and little prospect of acquiring any kind of status.
- Finally, it remained unclear in mid-2024 what would happen to the many with pre-settled who will be unable to, or unaware of the need to, upgrade to settled.

In each of these groups there will be some who are aware of their predicament and many more for whom that will only become clear when they need to claim benefits or prove status for work and housing.

6. Using status

The challenges for vulnerable EU citizens navigating EUSS did not end with the application process and the acquisition of status. As noted in section 4, EUSS was designed to be a ‘digital only’ status, but is more accurately conceptualised as a digital *process* for proving status.³⁹ As we show, that process presented a range of particular challenges for vulnerable EU citizens, including Roma. Indeed, our findings lend weight to the argument of some legal analysts that the digital only status is indirectly discriminatory and unlawful.⁴⁰

6.1 Digital literacy and accessibility

Roma encountered all the same difficulties in terms of using their status, once acquired, as did other EU citizens (associated with technical problems and glitches). But those issues were significantly compounded as a consequence of all the same challenges that many of them encountered when applying for status. Indeed, issues relating to digital accessibility and literacy were particularly acute for vulnerable Roma communities.

A 2024 RSG survey of Roma’s digital use (in relation to health services) revealed that over 60% do not use the internet at all for general use (accessing news etc.) and around half of Roma rarely or never check email. More than 70% said they struggled with English online and 50% said they were not confident with technology. Limited digital literacy and English language proficiency would make it difficult for Roma to use a status that was designed to be ‘digital only’, in the context of a broader push towards ‘digital by default’ in the context of the governance of migration and migrants in the UK.

A 2020 RSG survey confirmed those difficulties. In that survey 42% had already been asked at some point to prove status. Of those, one third said that they were able to do so on their own. A further third said that they were able to do it with support from family, a charity or by paying someone. And around a third said that they could not do it at all. Certainly these issues were ongoing in 2024 for Roma EU citizens. But they were occurring in a context in which, as discussed below, the advice capacity on offer in local communities was being considerably scaled back.

6.2 Generating a share code

More precisely, Roma struggled to access a ‘share code’ (see Figure 2 above), which was needed to prove status in the UK in the context of, for instance, taking on a job, claiming benefits, or renting a property (although, notably, right to rent checks do not apply in Scotland). Sometimes, it was also useful to have a share code to prove status at the border when travelling. Steps 2 and 5 in the process of generating a share code (see Figure 2 above) proved particularly problematic for Roma given their often limited digital literacy and/or a tendency to regularly change contact information.

³⁹ Tomlinson and Welsh. Digital Immigration Status: A monitoring framework. Public Law Project Research Paper. <https://publiclawproject.org.uk/content/uploads/2020/10/PLP-Report-Digital-Immigration-Status.pdf>

⁴⁰ Tomlinson, Maxwell, Welsh. Discrimination in digital immigration status. *Legal Studies*. 42(2): 2022. <https://www.cambridge.org/core/journals/legal-studies/article/discrimination-in-digital-immigration-status/9D931782E354BD842D21B024EA6F9095>

Step 2 requires the EU citizen to input their identity details. Advisors highlighted a number of cases where Roma had renewed passports or ID cards and not kept a record of old numbers (an issue that will surely impact many EU citizens). As one Roma advisor noted, “they need to update their passports, their IDs, you know, because we did lots of applications with ID [cards] and now the people have passports, so they have to change ... their ID for the passport” (Sheffield EUSS advisor 1). This made it impossible for them to log in to the system. In order to access the system they would have to call the Home Office and answer pre-agreed security questions. In many cases Roma were unable to recall the answers to those questions.

As to step 5 in the process, it asks where the share code should be sent: to a phone number or by email. Again, this created significant problems for Roma. In the context of applying, many Roma did not have an email address and had to rely on outside support to create an account. As a Sheffield community worker explained: “there was a challenge around emails. Many of them didn't have emails and so we had to help them... So yeah, I believe without us, it would be quite a challenge to a lot of people ... it is a challenge” (Sheffield EUSS advisor 1).

As to using phone numbers to receive share codes, this was also an issue for many Roma. As one local actor noted: “[m]ostly these families ... didn't have computers, they share a phone in a family and it [only] gets turned on when somebody wants to use it. And so the idea that it is all digital by default was just a problem” (Sheffield EUSS advisor 4). A specific issue in the Roma community related to a tendency to frequently change phone numbers. As one Sheffield advisor noted:

they... quite often change phone numbers... or, you know, SIM cards [for] better deals [only available with a new number], so they lose access to the old one and then .. they can't [access the system].. so they have to call the Resolution Centre... [It] takes ages to get through and then they have to get through the security ... if they've lost the questions and answers, they don't know (Sheffield EUSS advisor 1)

The same issue was reported in London and Glasgow: “The culture around mobiles is to change phone without porting numbers and without taking email account log in details off old and onto new phones. I would say this is likely to be a long-term issue” (Glasgow EUSS advisor 1). This was compounded by the fact that email addresses – for instance, google accounts – and other things were also often also changed (for instance when acquiring a new phone), or shared among friends and family groups. As a higher tier EUSS advisor who was frequently working with Roma clients noted: “They lost ... their access because their friend had access to their digital status. They don't know where the friend is or they fall out with the friend or whatever ... Lost phones, lost emails” (national EUSS advisor 2).

Where individuals failed to keep the information up to date in their EUSS/ UKVI account they would then struggle to log in to access proof of status and turn to local community actors for support. Like most EU citizens, for most Roma there was not a regular need to prove their status and so access the system. Consequently, it was very easy for the details in the system to become out of date, or for login information to be forgotten; issues that were compounded in the Roma community by the aforementioned tendency to often rely on others' details to make applications, not regularly use emails, or to change phone numbers quite frequently.

It might only be at the point of applying for welfare, or a more formal form of employment that a Roma EU citizen would be asked about status. Many advisors aimed to pre-empt the difficulties that vulnerable EU citizens could potentially face in using status.

the letter from the Home Office is very standard, it's very formal, it's not at all designed for the person that's reading it... So, what we try to do is when I close a case, I have a meeting with the client. If it's help that is needed, it's going to be in their language and I send them a closing letter to keep safe where I explain ... the steps on how to log in (national EUSS advisor 1).

However, such instructions were not always retained or easily understood by such clients: “even [our guidance] sometimes is not enough so they will come back to us... because then we're talking about vulnerable people .. their vulnerability [doesn't] go away when they receive status” (national EUSS advisor 1). Indeed, some local organisations went further and actively set up email accounts for clients and linked those to their account (Glasgow EUSS advisor 2). This made things easier when they would later need support logging in to the system (but it also created a dependency on those, often precarious, organisations).

Notably, close to 70% of support workers that we surveyed in mid-2024 said that they were often supporting Roma to access a share code, and for around a third of those workers it was one of the three most common issues (see Figures 4 and 5).

A number of respondents lamented the lack of a physical proof of identity that had existed for EU citizens prior to Brexit and that EU citizens advocates had been actively, but unsuccessfully advocating for. As one community worker, themselves an EU citizen, noted: “I had one of those permanent residence cards and it was a physical card ... there isn't any option for [them] having a physical card so you can't pick, ... which is not very fair, you know ... So, I don't understand why there isn't any sort of option that you could have a physical document” (Sheffield EUSS advisor 1).

Campaigns for a physical form of status, and proposals for an alternative to digital-only, have been a central focus of EU citizens advocacy organisations such as *the3million*, but the HO has been impervious to alternative suggestions (indeed, in 2024 it was rolling out the same system to all resident migrants in the UK). However, our research has shown that the need for a physical form of status is urgent and particularly acute for vulnerable populations, including many Roma. It is notable that when, in our information sessions with Roma, we spoke of the campaign for a physical immigration status backup, there was overwhelming and enthusiastic support for the idea. This reflects the position of EU citizens more broadly in the UK.⁴¹

⁴¹ Bueltmann. Experiences and impact of the EU settlement scheme. Report on the3million Settled Status Survey.
<https://the3million.org.uk/sites/default/files/files/Experiences%20and%20impact%20of%20the%20EU%20Settlement%20Scheme%20%282019%29.pdf> p.26
For a Scotland focused survey, see also:
Citizens Rights Project. A physical proof for EU citizens with pre-settled or settled status Findings of the survey "Would EU Citizens benefit from a physical proof of their pre-settled or settled status?". April 2022.
<https://citizensrightsproject.org/wp-content/uploads/2022/04/Report-A-physical-proof-for-EU-citizens-with-pre-settled-or-settled-status-2.pdf>

6.3 Using status in relation to work, housing and welfare

Even where Roma were able to access a share code, using it was a problem in relation to work, housing and claiming benefits. The often-drawn-out process that required employers to check those codes was particularly problematic for Roma given the precarious, part time and temporary nature of much of their employment. As a Sheffield respondent noted: “there's this ... employers checking service, and it takes about two weeks or up to ten days. But... people experience that it takes much longer. So... because they tend to have jobs, like with agencies, so if they go to the agency [and] there is a job available now, they can't wait for, you know, months or however long it takes” (Sheffield EUSS advisor 1). In short, the system can mean that Roma lose out on work opportunities.

We also know, as noted above, that a number of EU citizens were struggling to rent properties, especially where they had a pre-settled status that was close to expiration and this was visible to landlords in the online system. Indeed, experimental survey research with landlords conducted by the University of York showed that holders of a digital status – especially a more precarious digital status such as pre-settled – were at a significant disadvantage relative to British passport holders when it came to legitimately renting a property.⁴²

The issues associated with digital status certainly compounded the already significant obstacles that Roma encountered in terms of accessing good quality housing. Indeed, difficulties acquiring and proving status compounded a longstanding tendency to rent very poor quality housing informally in the private rental market (often from unscrupulous landlords). In some cases, living in such properties without rental agreements and documentary evidence of residence also compounded the aforementioned issues related to evidencing residence and acquiring or upgrading status.

Another issue in relation to using status related to the ability to claim benefits. Brexit coincided with the rollout of Universal Credit (UC), which presented a range of challenges for the many Roma on legacy benefits, which intersected in important ways with the rollout of settled status. Indeed, support workers were often dealing with questions relating to status and benefits at the same time.

As noted above, those with pre-settled status encountered barriers in terms of accessing benefits, given the application of a right to reside test that was difficult to pass. Concretely they must be regarded as having ‘worker status’ (a broad category in EU law) in order to qualify for UC. The UK applies a minimum earnings threshold (MET) for ascertaining whether the right to reside test is met (which, notably, does not apply to UK citizens).⁴³ But the right to reside test can, in principle at least, also be passed without meeting the MET (for instance where work is deemed to be ‘genuine and effective’).

⁴² Meers, Tomlinson, Welsh and O'Brien. *Rights on Paper? The Discriminatory Effects of Digital Immigration Status on Private Landlord Decisions*. 14 March 2023.

<https://ukconstitutionallaw.org/2023/03/14/jed-meers-joe-tomlinson-alice-welsh-and-charlotte-obrien-rights-on-paper-the-discriminatory-effects-of-digital-immigration-status-on-private-landlord-decisions/>

⁴³ Earnings need to be those required for class 1 national insurance contributions.

The EU Rights and Brexit Hub has made clear that the right to reside test was not always being properly carried out by DWP decision makers who often only considered the MET and in excessively narrow terms. Of particular relevance, the kinds of work in which Roma with pre-settled status were very often engaged led decision makers to automatically conclude that they did not meet the right to reside test. But low earnings (below the MET) and flexible and/or grey market labour *should not automatically* prevent EU citizens from passing that test.⁴⁴

Unsurprisingly our interviews suggested that there was widespread confusion on this issue among Roma EU citizens with pre-settled status, among local advisors, and also DWP decision makers. Some seemed to wrongly believe — and seemed to have been advised — that pre-settled status did not entitle them to UC in any circumstances: “[t]hey just seem to keep coming back to me saying that they were told by UC [DWP] to get settled status” (Sheffield EUSS advisor 1).

Even with a more accurate implementation of right to reside, many Roma with pre-settled status would have failed to meet the criteria. As one Roma advocate noted, “we’ve seen ... people being refused housing support by local authorities when they were on pre-settled status and [didn’t meet] other criteria such as, for example, being in work or having children in school” (national EUSS advisor 3). The inability of Roma to claim welfare benefits was clearly an issue in Sheffield, Glasgow and elsewhere in the UK in 2023 and 2024. As a Glasgow based community worker put it, “the vulnerability of being on pre-settled status is still, you know, .. really live... Right to reside and habitual residence tests are still live issues for people with pre-settled” (Glasgow EUSS advisor 1). They also emphasised that there were particular problems for women in the context of relationship breakdowns and “domestic violence situations” where they had received pre-settled status but had an urgent need for support.

Even where Roma had settled status they often struggled to use it in the context of the benefits system. Not only did they struggle to access their share code, they struggled to navigate the onerous conditionalities and reporting regimes associated, in particular, with UC (which was being rolled out at the same time as Brexit). Several support workers noted that certain legacy benefits, particularly in-work Tax Credits were far easier to navigate for vulnerable Roma with limited digital skills. As a Glasgow based interviewee noted: “[UC] is a system designed to make it incredibly difficult for people to actually access benefits, you know, who aren’t literate, who can’t speak English, who can’t engage digitally.... It has made it difficult for people. So, lots of people have been sanctioned, lots of people [are], you know, struggling to engage, needing a lot of practical support” (Glasgow EUSS advisor 3).

Moreover, we know that foreign nationals were particularly susceptible to having their benefits suspended in the context of DWP risk reviews. As a 2024 Citizens Advice report notes, suspensions cause significant harm and detriment.⁴⁵ Roma were certainly among those facing

⁴⁴ See EU Rights and Brexit Hub advisor toolkit: <https://www.eurightshub.york.ac.uk/project-news/new-adviser-toolkit-on-worker-self-employed-status-for-eea-nationals>

⁴⁵ Anns and Berry. Caught up in the net: how Universal Credit benefit suspensions are affecting people who come to Citizens Advice for help. Citizens Advice. 29 April 2024. <https://www.citizensadvice.org.uk/policy/publications/caught-up-in-the-net-how-universal-credit-benefit-suspensions-are-affecting/>

such hardship due to suspension. There was, for instance, a high profile case of Bulgarian Roma in Enfield (London) having their UC payments suddenly stopped.⁴⁶ As their local MP noted, suspensions were implemented, “under the management of the Risk Review Team, with little to no further explanation of the reason, apart from some claims of suspicion of fraud. Constituents told me that their claims were suspended for months on end—as long as 11 months, in the worst case.”⁴⁷ For the various reasons enunciated above – especially limited English, literacy and digital skills – many Roma struggled to navigate the onerous processes to provide the evidence required to have their benefits reinstated.

We know from advisors that in many instances where benefits were suspended following ostensibly fraudulent claims – and significant repayments requested by DWP – it was due to incorrect or non-existent reporting of work by employers to the HMRC. There were also cases where employers did not make it clear to employees that they were being treated as self-employed and they were unaware of the particular reporting requirements associated with that status (Glasgow EUSS advisor 2).

The DWP’s use of opaque algorithmic and automated systems for highlighting potential cases of fraudulent claims were the subject of widespread criticism after 2021, mainly for their potential to discriminate against certain minority groups.⁴⁸ As a 2019, UN report said of the ‘digital welfare state’: “in-built forms of discrimination can fatally undermine the right to social protection for key groups and individuals.”⁴⁹ The same report suggests that, “[i]nstead of obsessing about fraud, cost savings, sanctions and market-driven definitions of efficiency, the starting point should be how existing or even expanded welfare budgets could be transformed through technology to ensure a higher standard of living for the vulnerable and disadvantaged.”⁵⁰

6.4 Problems at the border

We know that Roma EU citizens encountered a range of issues at the UK border. While in principle all EU citizens were still able to enter the UK (at least as visitors), in practice, Roma EU citizens often encountered significant difficulties. Over the summer of 2023 the RSG spoke to Polish Roma, Slovak Roma and Romanian Roma. All three groups mentioned that they had encountered significant issues when trying to return to the UK from holidays. These experiences were confirmed in conversation with Roma advisors and EU citizen advocates. Romanian and Bulgarian Roma were particularly likely to encounter difficulties, which aligns with the figures on those nationalities that were most likely to be refused entry at the border.⁵¹

⁴⁶ Cracknell. Benefit fraud team ‘unfairly targeting’ Bulgarian Roma people in Edmonton. Enfield Dispatch.10 February 2022.

<https://enfielddispatch.co.uk/benefit-fraud-team-unfairly-targeting-bulgarian-roma-people-in-edmonton/>

⁴⁷ Cit. in CPAG. Risky business - DWP fraud reviews. April 2022. <https://askcpag.org.uk/content/207851/risky-business-dwp-fraud-reviews>

⁴⁸ Savage. DWP urged to reveal algorithm that ‘targets’ disabled for benefit fraud. The Guardian. 21 November 2021.

<https://www.theguardian.com/society/2021/nov/21/dwp-urged-to-reveal-algorithm-that-targets-disabled-for-benefit>

⁴⁹ Alston. UN. Report of the Special rapporteur on extreme poverty and human rights. 2019. p.22

⁵⁰ Ibid p.23.

⁵¹ O’Carroll and Goodier. Fivefold rise in number of EU citizens refused entry to UK since Brexit. The Guardian. 25 November 2023.

UK border force staff often refused entry to those with certificates of application (for late applications), or a record of previously refused applications. In both situations it was not obvious that the individuals concerned did not have a right to status, or to therefore enter. They were also entitled to enter as visitors. But such individuals were often treated as suspicious – not ‘genuine’ visitors – and given a limited leave to enter or, if they were particularly unlucky, returned. The inequality in treatment was inexplicable to one high tier advisor: “I actually don’t understand why some were granted 28 days to enter and some [were not]” (national EUSS advisor 2).

There were also cases of individuals with status who were unable to prove it to the satisfaction of Border Force officials. The RSG received reports of people who had settled or pre-settled status who were asked to return just because they could not confirm their status. This was confirmed by a high tier Roma legal advisor: “[of] all those applicants [who] were referred to me, [and] were returned... They were all eligible, actually” (national EUSS advisor 2). Those with status, but unable to prove it had in some cases changed their passport/ ID, but not updated the relevant information in the UKVI system. This meant that neither Border Force nor the individual were able to view status (Sheffield EUSS advisor 1). This was likely to remain a significant long term issue, not only for Roma, but for all EU citizens. Indeed, the requirement to actively keep passport/ID information up to date in the UKVI system and ideally keep a record of old passport/ID details, was an onerous one, born out of the scheme’s problematic digital only nature (as noted above).

In some cases difficulties arose not in the UK, but even before Roma EU citizens boarded a flight to the UK. This was because airline carriers often did not want passengers to board out of fear that they might be refused entry at the UK border. In such circumstances the carrier would be liable for a fine or required to return passengers at their own expense. RSG received reports between 2022 and 2024 of numerous Romanian Roma not being allowed to board aeroplanes by the airline staff. It was difficult to avoid the conclusion that the discretion afforded to both staff working for airline operators and border force officials intersected with prejudiced attitudes towards Roma EU citizens.

As *the3million* have pointed out, these difficulties at the border for EU citizens – and particularly vulnerable and ethnic minority EU citizens – are likely to be compounded in the context of the rollout of the Electronic Travel Authorisation (ETA) system in the UK for all EU citizens by the end of 2024.⁵² This will require that all EU citizen visitors to the UK obtain a digital permission – an ETA – in order to travel to the UK. In principle EU citizens should be able to acquire an ETA for the purposes of visiting the UK (with some, fairly circumscribed, grounds for refusal). This may in fact make things slightly easier for many Roma EU citizens visiting the UK temporarily, certainly if they are able to acquire an ETA. Those seeking to live in the UK without status – by travelling in and out as a visitor – may, however, be more visible and potentially denied an ETA.

<https://amp.theguardian.com/uk-news/2023/nov/25/fivefold-rise-number-eu-citizens-refused-entry-uk-since-brex>
⁵² Home Office. Electronic Travel Authorisation (ETA) scheme factsheet – February 2024.
<https://homeofficemedia.blog.gov.uk/2024/02/01/electronic-travel-authorisation-eta-scheme-factsheet-february-2024/>

Perhaps even more significantly, for EU citizens with settled or pre-settled status, including Roma, the ETA system is likely to make travelling more difficult. EU citizens with status in the UK will not be able to get an ETA, in principle because they do not need one. But this will draw greater attention than ever to the need for EU citizens to prove their status at the border. Whereas, in the past, airlines and border officials might have allowed individuals to enter as visitors where there was some doubt about their status, they will no longer be able to do so. In principle, if an EU citizen's passport is linked to their online status, then this should be clear to border officials and airline workers. However, if, as in the aforementioned cases, an individual has a new passport that they have not linked to their EUSS/ UKVI online account then their status will not be clear. Similarly, if the system experiences a glitch – which, as noted in section 4, has been an all-too-frequent occurrence – then neither border force nor airline workers will be able to view an individual's status. In such circumstances, airlines liable for the cost of returning those refused entry will be even more likely to refuse entry. As Monique Hawkins of the3million noted at a March 2024 House of Lords committee, they may also be more likely to “do their own risk assessments, perhaps profiling.”⁵³ This risks making travel in and out of the UK far more difficult for all EU citizens with status, and especially for ethnic minority EU citizens, including Roma. It is notable in this respect that over 50% of support workers surveyed in mid-2024 reported advising on ‘issues with entering and leaving the UK’ in their work with Roma populations.

6.5 Roma EU citizens who *cannot* generate a share code

As discussed, some Roma in the UK cannot access a share code because they do not have any status and are unlikely in many cases to acquire one under EUSS or any other immigration route. But there was another group of Roma EU citizens in the UK who could not access a share code because they had a status in the UK – a form of indefinite leave to remain (ILR) – that predated and was distinct from ‘settled status’ (also a form of ILR).

These Roma were likely part of a much larger cohort of EU citizens with an older form of ILR who were not required to apply to EUSS.⁵⁴ In the case of Roma, that earlier ILR status had, in most cases, been granted to those who arrived in the UK before the 2004 and 2007 ‘big bang’ enlargements and had successfully applied for asylum in the UK.

While this cohort of EU citizens had the possibility to apply to EUSS, government guidance did not explicitly encourage them to do so and many chose not to as they preferred to have a physical proof of their status, which settled status would not offer them (see section 6.2).

In the context of EUSS, that pre-existing ILR proved problematic for Roma to use in order to prove status. In short, various actors, including some government departments, were, from 2021, working on the incorrect assumption that *all* EU citizens legitimately in the UK would have an EUSS status and would therefore need to generate a share code in order to prove status.

⁵³ House of Lords. Justice and Home Affairs Committee. Uncorrected oral evidence: Electronic border management systems. Tuesday 12 March 2024. 11.30 am. <https://committees.parliament.uk/oralevidence/14476/html/>

⁵⁴ It is likely that many other, probably mostly elderly EU citizens, also had a form of ILR predating Brexit. It is unclear how many EU citizens in total are in this position (the HO refused our FOI request asking for data on the size of this cohort).

The RSG received numerous reports of issues experienced by Roma EU citizens in this position, including cases of: refused child benefits; refused Universal Credit by the DWP; refused student loan; and border staff asking individuals to switch to EUSS.

The issues encountered by this cohort are likely to be compounded by the broader 2024 move to eVisas for all resident migrants in the UK, including those with (non-EUSS) ILR.⁵⁵ Those with status, including ILR, under EUSS already have an eVisa and will not need to do anything. But those EU citizens with this older form of ILR will be required to apply for an eVisa along with non-EU citizens with ILR. In order to do so they will need to, in a first step, submit a 'no time limit' application (NTL), which will require them to prove that they have not breached the conditions of the ILR (i.e. have not left the UK for a period greater than 2-years). If successful, they will then be given a Biometric Residence Permit (BRP) and will be in a position to create an eVisa. For EU citizens in this cohort, this will likely be a far more cumbersome process than applying for EUSS, and particularly challenging for many Roma for the reasons described above.

However, applying for EUSS has also not proved straightforward for individuals in this cohort. Having encountered the aforementioned difficulties using their non-EUSS ILR, a number of individuals chose to apply for EUSS. Where they did so after the application deadline – and especially after the August 2023 changes to the late application process (see section 4) – they often encountered difficulties explaining why they were making a late application. It is our strong view that late applications from this cohort should be automatically accepted given that they were not required to apply for the scheme and the difficulties they are facing using non-EUSS ILR are clearly not their fault. This will be even more important when individuals in this cohort will need to choose between EUSS and the alternative route for acquiring an eVisa described above.

In the short term, there is also clearly an urgent need for the government to make clear in all relevant guidance (especially all DWP guidance) that this cohort exists and, therefore, that some EU citizens will not be in a position to generate a share code and other documentation should be accepted as proof of their ILR status. It is concerning that a culture has emerged among decision makers across the public sector that requires all EU citizens to supply a share code, when significant numbers with a legitimate status will not be in a position to do so.

⁵⁵ Home Office. Media Fact Sheet: eVisas.
<https://homeofficemedia.blog.gov.uk/2024/04/17/media-factsheet-evisas/>

7. Supporting Roma

7.1 Government initiatives to support vulnerable EU citizens

The government did try to offer support for vulnerable EU citizens in the UK. It developed the 'safeguarding user group team' (of which the RSG was a participant) and developed a communications programme, *Stay Informed*, to raise awareness of EUSS and make clear that they would need to take action as well as developing lines of communication via Local Authorities and civil society organisations working locally. A resolution centre was established to support both those struggling with applications and those offering advice and support. Many Roma advisors had positive things to report with respect to the decision makers working in the centre, particularly for the period preceding 2023.

An initial £9 million of funding was also committed in 2019 to voluntary and community organisations (Grant Funded Organisations (GFOs)) to support the most vulnerable EU citizens; by 2021 a total of £17 million had been provided to 72 organisations; and in 2023 a further £2.5 million was committed. In 2023 the government highlighted that, "Home Office grant funding has already supported more than 490,000 vulnerable people in applying to the EUSS, ensuring that they secure their rights in the UK following our departure from the EU."⁵⁶

These initiatives provided local authorities and community actors with resources to offer legal advice and resolve issues encountered disproportionately by the most vulnerable EU citizens. Such support was granted to organisations equipped to provide immigration advice and support at different levels (regulated by the Office of the Immigration Service Commissioner (OISC), advisors are accredited at tiers 1-3). The achievements of government and local actors in supporting vulnerable EU citizens through the EUSS process were certainly significant. However, many EU citizens fell through the gaps, as discussed above.

The targeted funding for community level support for EUSS was being wound down in 2023 and 2024. The charity Migrant Help was given the contract to supply tier 1 support in England from 2023-2025. For the period 2023-2025 the GFO contract for tier 1 advice went to the charity Settled for Wales, Citizens Advice Scotland for Scotland, and Advice NI for Northern Ireland.

The switch to funding one organisation in England meant that local actors controversially lost funding.⁵⁷ In Sheffield, for instance, this meant that both the funding to local community centres and to Citizens Advice Sheffield came to an end. The loss of this local level funding meant that many non-Roma and Roma support workers who were trusted in the community and able to offer reliable EUSS advice, had to leave, had their working hours reduced, or were redeployed.

⁵⁶ Gov.UK. £2.5 million funding boost to support vulnerable EUSS applicants. Home Office. 6 July 2023. <https://www.gov.uk/government/news/25-million-funding-boost-to-support-vulnerable-euss-applicants#:~:text=News%20story-,%C2%A32.5%20million%20funding%20boost%20to%20support%20vulnerable%20EUSS%20applicants,to%20the%20EU%20Settlement%20Scheme.>

⁵⁷ See letter from the3million to HO criticising the new terms of funding. May 2023. <https://the3million.org.uk/sites/default/files/documents/t3m-letter-HO-EUSSGrantFunding-24May2023.pdf>

That said, in the best case scenarios, Migrant Help worked to fill those gaps. In Sheffield, one of their staff members worked hard to provide effective support after June 2023, although they were covering a much broader geographical area (a total of 11 staff were covering the whole of England in 2024). Moreover, support for tier 1 advice was due to expire in March 2025 when the HO GFO funding for Migrant Help was due to end.

As for higher tier advice (OISC 2 and 3), it was proving extremely difficult to access in 2024. The demand for higher tier advice increased following the change to the late application rules. Following that change, the OISC issued new guidance suggesting that many late applicants should be dealt with by level 2 and 3 advisors. Notably, however, there was no commensurate increase in funding for these higher tier advice organisations.

More generally, the complexity of cases meant that higher tier case workers in GFOs were significantly stretched. In early 2024 a number of organisations had to place a temporary pause on all new referrals as the case load became too high. The reality on the ground was at odds with HO claims that there was significant spare capacity for those organisations providing complex EUSS advice and support and called some EU citizens' advocates to call into question HO methods for calculating capacity.⁵⁸ Some organisations were calling for the EU and EU embassies to fill funding gaps.⁵⁹

Support for EUSS advice was diminishing in a broader context where the capacity to supply immigration advice far outweighs supply.⁶⁰ This capacity issue has only increased since Brexit and the end of free movement, both as a result of an increase in non-EU migration and the demands associated with EUSS. Moreover, at the time of writing in 2024, OISC was consulting on plans to increase its accreditation registration fees, under pressure from the government to ensure "cost recovery for the regulation of immigration advice."⁶¹ One proposal under consideration was to introduce charges for non-fee charging organisations and individuals. As Citizens Advice Scotland noted in response to this proposal: "it will have a chilling effect on advisor recruitment and retention, and place further financial burden on a sector already desperately struggling to cope with demand."⁶²

⁵⁸ Letter from the3million to HO on 'Grant Funded Organisations providing complex EUSS advice and support services'. 5 March 2024. <https://the3million.org.uk/sites/default/files/documents/t3m-letter-HO-CapacityGFOComplexEUSS-05Mar2024.pdf>

⁵⁹ Letter from Here for Good to the EU delegation to the UK. 20 March 2024. <https://hereforgoodlaw.org/wp-content/uploads/2024/03/Joint-letter-to-EEA-States-re-Funding.pdf>

⁶⁰ Wilding, Mguni, Isacker, A Huge Gulf: Demand and Supply for Immigration Legal Advice in London. Justice Together. June 2021. <https://justice-together.org.uk/wp-content/uploads/2021/06/A-Huge-Gulf-FINAL-report.pdf>

⁶¹ Open Consultation: Consultation on changes to the Office of the Immigration Services Commissioner's fee structure (open March 2024). <https://www.gov.uk/government/consultations/office-of-the-immigration-services-commissioners-fee-structure/consultation-on-changes-to-the-office-of-the-immigration-services-commissioners-fee-structure#about-this-consultation>

⁶² Citizens Advice Scotland's response to the consultation (May 2024) estimates that the proposal could create a cost burden for them of around £500k over three years: <https://www.cas.org.uk/publications/consultation-changes-office-immigration-services-commissioners-fee-structure>

7.2 Supporting Roma locally

The Roma urgently needed support to engage with EUSS, and would still need that support beyond 2024, as our above analysis has already made very clear. The demand for support became obvious very early in the EUSS rollout. The RSG participated in an early “private beta” test of the EUSS system in 2018. They selected *relatively* privileged Roma participants who at least had valid passports, a valid email address and were able to pay to apply (the £65 charge, which was later abandoned).

Participants in the trial were asked to complete the application process as independently as possible. Notably, of the 64 applicants that were included in their trial, only 2 were able to complete the process independently, 4 were able to complete only part of the application and 58 required support at every stage. Applicants struggled, in particular, with identifying and uploading relevant additional supporting documents. This was often necessary as the automatic HMRC/ DWP checks did not work effectively for these Roma, likely due to their typically patchy work and welfare histories.

Despite needing substantial EUSS support, Roma are often justifiably nervous to seek out that support. Given the endemic discrimination that they have experienced both historically and in the present day – in CEE states *and* in western Europe – many Roma continue to see the authorities as a threat and so, they were often reluctant to engage with services at the local level. At the same time, we know that in some areas with Roma populations there was limited advice available – so-called ‘advice deserts’. The cost implications of travelling to get advice, or the technical obstacles associated with seeking online support, were significant for Roma. These various factors meant that many Roma (as noted in section 5.1) failed to apply to EUSS in the early phase of the rollout.

A reluctance to engage with advisors was especially the case when more complex legal advice was required, as there was a reported reluctance to reach out to more specialist and accredited forms of legal advice that was also perceived to be offered by more ‘official’ organisations (for instance, organisations with OISC level 3 advisors such as Citizens Advice).

In Sheffield, the city council – in accordance with recommendations from Roma charities such as RSG - initially delegated first tier advice to trusted local community organisations and this certainly helped many Roma. But those organisations often had to refer the aforementioned complex cases on to Citizens Advice who received HO funding to provide OISC level 2 and 3 advice. While they did have provision to provide appropriate interpretation, many Roma nevertheless either did not pursue such advice, or did not see it through to its conclusion. As one community worker noted:

I know [Citizens Advice] are brilliant, you know, they're brilliant... they've got qualified workers and advisors... but it's just... getting the Roma community [to] call them... So, they keep saying, 'Well, nobody's picking up...' I [say], 'Yeah, but you've got to wait'. So, there's a little bit of resistance there as well. Just giving somebody [a] number [doesn't] really work and we don't have time to stay on the phone with everybody for, you know, half an hour to get through ... but it's just [these] formal things just don't work with this community (Sheffield advisor 1)

Even where Roma would access higher tier advice, they would often not follow up after an initial appointment. This was confirmed by a higher tier advisor in Sheffield: “[w]e’ve completed the assessments, worked out what it is or what help is needed. Advised them, ‘This is what you need to provide in order for us to make an application’. [But then] they dropped off [our radar]” (Sheffield advisor 2).

Moreover, when all lower tier GFO funding was moved to Migrant Help in England in 2023, this undoubtedly created some issues for those seeking local advice given community organisations lost funding and capacity.

That said, Migrant Help were certainly proactive in their EUSS support work, with their small number of advisors travelling far and wide in England to offer EUSS support, very often to Roma clients. In the best case scenarios – and we believe Sheffield was certainly among those – the Migrant Help worker actively established links with the community organisations that had been offering advice (usually with GFO funding) and based themselves in some of those centres. Migrant Help also had effective links with HO resolution centre workers which allowed them to quickly and effectively resolve cases and probably limit the demand for higher tier support. However, when higher tier support was required, it was not always easy to access. Moreover, the limited number of Migrant Help advisors was certainly problematic more widely and there were geographical gaps in coverage.

In Scotland, it was notable that key local Roma support workers in Govanhill, Glasgow – where nearly all Roma in Scotland are concentrated – reported that they had had no real interactions with the GFO Citizens Advice Scotland in 2024. Local support workers reported dealing with cases as best they could after 2023 without GFO funding, or directing families to immigration solicitors who would charge for advice (Glasgow EUSS Advisor 2). One of this report’s authors sought to facilitate closer relations between Citizens Advice Scotland and organisations in Govanhill in 2024 in an attempt to emulate the close relationship Migrant Help had established with certain Roma supporting organisations in England.

Of greater concern was the prospect of the end of GFO funding for local support everywhere in 2025. Certain GFO frontline workers expressed this concern, as did local actors. As one Sheffield community worker emphasised, “people will still need us, especially if the settled status needs to be proved. [And] you know, there [are] babies being born every day [and many of whose parents will need to actively acquire status]” (Sheffield EUSS advisor 1).

Similar efforts and concerns around dwindling capacity were apparent also in Glasgow. As one local actor noted, “you’re still trying to find ways to help people kind of understand what they’ve got to do and take responsibility for themselves. But it’s very difficult, you know... so, with the capacity there, it’s just going to be massively challenging” (Glasgow EUSS advisor 3).

A number of others offering support in other cities confirmed the view that the challenges for Roma were likely to continue well into the future. It was also noted that certain cities were advice deserts for Roma: one advisor noted that they did a weekly clinic in one such city and (as of April 2024) they had an average of 45 clients seeking support every week, most of them

Romanian Roma. Indeed, it was clear in 2024 that Roma EU citizens – among many other vulnerable EU citizens – will need application support well into the future.

Equally concerning was the prospect of the removal of higher tier EUSS support. It was unclear in 2024 where this support would come from given the phasing out of HO GFO support from March 2024. In Sheffield, the City Council sought to plug gaps in funding for higher level support via Citizens Advice Sheffield, but their services were also stretched, particularly given the ongoing demand from Slovak Roma in the city (they were dealing with approximately 10-15 complex cases from Slovak EU citizens per month as of early 2024). National charities offering this level of advice were struggling to cope with demand in early 2024 (national EUSS advisors 1 and 2). And, as noted above, these pressures were being felt in a broader context where the government was seeking to recoup the costs of OISC regulation in the sector, potentially by imposing new costs on the voluntary sector.

As noted in section 5, support at all levels will certainly still be needed well beyond 2024, particularly in relation to advice on joining family members, applications for children, late applications and – perhaps most significantly of all – upgrading from pre-settled to settled status.

The demand for support in relation to navigating the ‘digital only’ process for proving status was also still very evident in 2023 and 2024. This was made clear by a local Sheffield advisor, who was herself no longer paid to work on EUSS, but was still supporting clients informally: “they’ve got status, they know it, but they can’t access it because they’ve lost the number, so we have to call with them. We offer language support and talk to the Home Office on their behalf, with them on the line or with us or on the other line. We help people with [the] share code” (Sheffield EUSS advisor 1). Such ongoing need was also clear in Glasgow in 2024: “we’re helping people with the view and prove status process ... we are [still] helping update ID, mobile, email details in UKVI accounts and [to] recover [details] via the resolution centre when log in details are lost (especially mobile and email access)” (Glasgow EUSS advisor 1).

As noted above, the inability to quickly and easily prove status was likely to become an even greater issue at the UK border from the end of 2024. These issues will only be fully resolved if the government rethinks the cumbersome and notoriously unreliable ‘digital only’ process for proving status and, ideally, offers the option of a physical proof of status.

Moreover, support was also frequently still being provided to Roma in relation to the interconnected issues of status and access to benefits. To the extent that Roma were unable to upgrade to settled status, and those with pre-settled status had a much harder time accessing benefits, this was also likely to remain a live issue well into the future.

7.3 ‘Advice sharks’ and other exploitation

Roma in the UK have long been susceptible to exploitation, as earlier research has shown.⁶³ But Brexit and the various issues associated with EUSS rendered them far more susceptible to exploitative practices.

⁶³ Duncan. Multi-Level Citizenship and the Experiences of Roma EU Citizens in the UK: Evidence from Sheffield and Glasgow. PhD thesis, University of Sheffield. <https://etheses.whiterose.ac.uk/31988/>

In relation to EUSS, and especially in a context of diminished government funding for reputable advice, Roma were increasingly susceptible to inaccurate advice offered by both well-meaning but ill-informed parties and also unscrupulous so-called 'advice sharks'.⁶⁴ This was the case in relation to acquiring status but also in relation to acquiring national insurance numbers and making claims for benefits.

Even those with status were vulnerable to exploitation, for instance in relation to applications for benefits. This had been a prominent issue for Roma before Brexit, and was apparent in relation to EUSS:

People tend to go to advisor[s] that are not properly advisor[s] and tend to pay a lot of money for unfortunately bad advice. But in that moment, that's the only person that can speak maybe their language and they explain to them what the application is about. So, I can see why they're going there, right? But most times, when clients come to us and say, 'I've paid' sometimes very high fees to have an EUSS application done, that EUSS application is not done correctly (national EUSS advisor 1)

In both Sheffield and Glasgow, local community workers had heard local reports of such practices:

I think maybe before the deadline where people panicked and when organisations were overloaded, maybe this is when it was happening the most. But yeah, I've heard that people charge like £20 [for] making an application or somebody £60 (Sheffield EUSS advisor 1).

We've heard of cases of people meeting like an individual to pay £50 or whatever for help that they believe is going to be effective and it turns out not to be effective, or people paying for help once and finding that it actually hasn't solved the problem (Glasgow EUSS advisor 1).

Fears were expressed that this situation would be set to get worse in the context of diminished funding for free expert advice:

I think what we will start to see is a lot of, for want of a better expression, the private sector coming in [even more]... we had loads of people that were ... involved in criminal activity to get people benefits or people who would charge for translating a letter or writing a letter for someone or helping them engage with a service. We're going to see more, much, much more of that now (Glasgow EUSS advisor 1).

Notably, in 2024, we were also informed of community workers and advisors being offered payments by desperate Roma in the UK who were, in many cases, very unlikely to qualify for status (Sheffield EUSS advisor 3). Such Roma were particularly susceptible to exploitation in relation to advice. They were also highly susceptible to exploitation in informal labour

⁶⁴ Costello and Barnard. Advice sharks are benefitting from the cost-of-living crisis. UKICE. 3 November 2022. <https://ukandeu.ac.uk/advice-sharks-are-benefitting-from-the-cost-of-living-crisis/>

markets, which was a growing risk for all migrants in a context of diminishing government resources to police and regulate such practices.⁶⁵

⁶⁵ Das. 'If you want to abuse your workers, that's fine': UK modern slavery watchdog's funding cut. The Guardian. 30 March 2024.
<https://www.theguardian.com/world/2024/mar/30/uk-modern-slavery-watchdog-funding-cut>

8. Summary and conclusions

Roma in the UK continue to struggle to apply for and use EUSS status, three years after the initial 2021 deadline, and they will continue to encounter difficulties for some years to come. Their experience is in some respects particular to this community; a consequence of the marginalisation that this community has long experienced in their countries of origin and in the UK. At the same time, however, their experience is indicative of the problems that many other potentially vulnerable EU citizens will be facing in the UK in 2024.

Many Roma still need to navigate the complexities of the EUSS application process. For instance:

- As late applicants who were unaware of the scheme.
- As joining family members, newly arrived to the UK or seeking to come.
- On behalf of children whom they did not realise needed to apply separately and for newborns.
- When applying to upgrade from pre-settled to settled status (a form of ILR).
- When seeking to move from non-EUSS forms of ILR to EUSS.

This report has detailed the array of barriers and challenges that Roma encounter in these circumstances.

The report has also outlined the challenges that are faced even once status is acquired. Roma often struggle to:

- Access and prove their online status (generate a share code) via a cumbersome online *process*.
- Use their status to access certain benefits and other services (especially the disproportionate number of Roma with pre-settled status).
- Easily travel to and from the UK.

For vulnerable Roma the challenges of navigating the online process are, as we have discussed, particularly acute, and the need for a simpler alternative – preferably a physical or simple digital form of proof – is extremely urgent. Regrettably the government's commitment to this problematic digital process has been unwavering, as reflected in its ongoing extension of 'digital by default' to all non-EU resident migrants. These are issues that many EU citizens' advocates, including *the3million*, have repeatedly highlighted.

While organisations – including RSG, EU citizens' advocates, and many local actors – have worked hard to inform Roma in relation to EUSS, we have shown that the need for community face-to-face support remains pressing, as does the demand for accessible higher-tier immigration advice for complex EUSS cases. GFO funding should be extended well beyond 2025 and some local funding should be directed towards trusted local community organisations with relevant linguistic skills (and, preferably, some Roma staff).

The EU, and relevant EU embassies, might also commit to offer greater support in the context of a general commitment to ensuring that the Withdrawal Agreement is fully respected, and

a specific commitment to support Roma across Europe (demonstrated by the EU-Roma Strategic Framework).

There are a range of other ways in which the EUSS – and related aspects of UK immigration policy and practice – might be usefully reformed in order to make life easier for Roma and other vulnerable groups of EU citizens living in the UK. These are detailed in our comprehensive list of recommendations at the start of this report (see section 3).

The lamentable experience of the Windrush scandal should motivate the UK government to act now, rather than – as in that case – attempt, largely unsuccessfully, to repent later. If a more sympathetic and flexible approach is not taken and funded support is not offered, then this or some future government risks a repeat of that scandal but on a potentially much bigger scale. In short, many Roma and other vulnerable EU citizens – including many thousands who were eligible for status after Brexit – will be left without a demonstrable right to live and work in the UK. This already marginalised group will, as such, be at risk of removal, unable to access various public services, and highly vulnerable to all manner of exploitation.