



Foreign, Commonwealth
& Development Office

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Fiona Godfrey

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Dear Fiona,

Thank you for your letter of 13 January, setting out a range of issues relating to the rights of UK nationals living in Europe. I am replying as the Minister of State for Europe and North America, and will address each issue in turn. Before doing that, I would like to underline how much the Foreign, Commonwealth and Development Office (FCDO) has valued the extensive work that British in Europe has done over the years on behalf of UK nationals living in Europe.

The FCDO continues to maintain a global consular network to provide support to British people living and travelling overseas. This covers both consular assistance as set out in the FCDO's [Support to British Nationals Abroad](#) page, as well as the work FCDO staff do to help British people living and travelling overseas take responsibility for themselves. In Europe, this will continue to include citizens' rights work, focussing on those countries where UK nationals are encountering ongoing issues. The FCDO will continue to maintain [Living in Guides](#) for individual countries across Europe, as well as a separate [Living in Europe page](#) for more specific guidance that is applicable to all UK nationals who have been living in EU/EFTA countries since before 1 January 2021.

Of course, in addition to our support, it remains the primary responsibility of host governments to implement the Withdrawal Agreement and to ensure that UK nationals living in Europe can correctly access their rights – in the same way as it is our responsibility to do the same for EU nationals. As you know, UK nationals can also contact the European Commission and the relevant Government bodies in their host state for support and guidance.

Most UK nationals should be able to complete their residency application without additional support, however, we recognise that this will not be true for everyone. The UK Nationals Support Fund (UKNSF) was set up to help those individuals.

The Fund has now been active for nearly 18 months and has so far reached nearly 500,000 individuals, with around 24,000 UK nationals directly supported by a caseworker. In most countries, the demand for support has decreased as UK nationals have completed their residency applications, or where deadlines for applying for residency have passed. The success of the UKNSF has meant that we have been able to gradually wind-down the support provided by our implementing partners in keeping with demand, and consequently the Fund is no longer open to new cases, but will continue to help existing clients in Spain until 31 March 2022 when it will cease operation.

The right to return to the UK of UK citizens with non-UK family members

In the FCDO's letter to you of 20 October 2021, we responded to your concerns on the application deadline for the EU Settlement Scheme (EUSS) for family members of UK nationals returning to the UK after living in the EU and the processing time for EUSS family permit applications.

As a matter of domestic policy, the UK Government announced transitional arrangements for these UK nationals and their family members in April 2019. This has provided almost three years' notice of the cut-off date for these provisions of 29 March 2022, allowing reasonable time and flexibility for families to decide whether or not to relocate back to the UK on this basis and to take steps to do so if they wished. Until the end of the transition period on 31 December 2020, this was possible using the 'Surrender Singh' route under the EEA Regulations. From 1 January 2021 onwards, the EUSS family permit has been available to enable relevant family members to travel to the UK. In either case, they could then apply here to the EUSS.

As previously noted, where an application for an EUSS family permit is made on this basis by 29 March 2022 but is not decided by that date, it will continue to be processed and an EUSS family permit will be issued where the applicant meets the requirements. A relevant family member who comes to the UK with an EUSS family permit issued in such circumstances will then have 'reasonable grounds' for making an application here to the EUSS after the 29 March 2022 deadline, provided they do so without undue delay.

The Home Office has noted your proposal that family members of UK nationals returning with them from the EU should be able to enter the UK as a visitor before applying here to the EUSS. However, and I recognise this is not the response you were hoping for, it remains the case that any person seeking to enter the UK as a visitor must satisfy the Immigration Rules, which includes the requirement that they intend to leave the UK at the end of their visit. Although EEA, Swiss and other non-visa nationals will not be prevented from travelling by carriers, they may be liable to be refused entry at the border if they do not satisfy the visitor rules because a visit is not their genuine purpose in coming to the UK. A visa national will be required by a carrier to produce a valid visa or visa exemption document, such as an EUSS family permit.

Draft changes in the Nationality and Borders Bill on deprivation of UK citizenship for dual nationals

We have shared your concerns over clause 9 of the Nationality and Borders Bill with the relevant teams in the Home Office.

These provisions relate solely to the process for notification of a decision to deprive a person of British citizenship. So, to be clear, the Bill does not widen the reasons for which a person can be deprived of their citizenship.

Deprivation of citizenship is used against those who obtained British citizenship by fraud and against those who present the greatest danger to the public, such as terrorists, extremists and serious organised criminals. Such decisions, which always carry a right of appeal, are made following careful consideration of advice from officials and lawyers and in accordance with international law, including the UN Convention on the Reduction of Statelessness, and each case is assessed individually.

Implementation of the 7-year grace period on home fees and student finance for prospective UK citizen students living in the EEA and Switzerland

I am very sorry to hear of the cases of incorrect implementation with respect to the 7-year grace period on home fees and student finance, in particular that it has affected many UK nationals in the EEA and Switzerland.

The Department for Education (DfE) does already provide a wide range of guidance for students and public bodies to ensure that they are aware of eligibility for home fees and student finance in part to avoid exactly this kind of issue. This comes direct from DfE, as well as alongside the Student Loans Company. They also work closely with, and provide guidance to, sector bodies (such as Universities UK, Independent HE, GuildHE, and the UK Council for International Student Affairs (UKCISA), as well as the Office for Students) on student finance arrangements, including the right to home fee status and student financial support by UK nationals and their family members living in the EEA and Switzerland. These sector bodies also communicate directly to their members and stakeholders.

UKCISA has published extensive guidance on home fee status for Higher Education Providers and students here: [UKCISA - international student advice and guidance](#).

Notwithstanding this available guidance and communications, DfE have confirmed to me that they will contact sector bodies again, asking them to make sure that their members are aware of the transition period during which UK nationals in the EEA and Switzerland are entitled to home fee status and student finance in England. I hope this will help.

Prospective students who believe a provider in England has incorrectly assessed their application, and who have exhausted the relevant complaints procedure at that provider, can contact the [Office for Students](#) to request the regulator look into the matter.

Changes to Personal Independence Payments (PIP) for recipients in the EEA and Switzerland

The Department for Work and Pensions (DWP) has noted your concerns regarding Personal Independence Payments. The work in this area remain under development and no further decisions have been made around the reform.

Shaping Future Support: The Health and Disability Green Paper explores how the benefits system can better meet the needs of disabled people and people with health conditions.

This includes how people can be supported more effectively with their extra costs. DWP remains committed to making changes to improve the current system and has set out several areas it wants to explore, including making further improvements to the decision-making process and ways to reduce repeat assessments.

DWP received over 4,500 responses to the public consultation on *The Health and Disability Green Paper* and is very grateful to all the individuals and organisations who have contributed. That Department is currently reviewing responses to the consultation. As stated in the Green Paper, it will consider the impact of any potential changes to the benefits system on the other benefits and the support it provides for disabled people and people with health conditions.

While the formal consultation period has now ended, DWP will continue to engage with disabled people and people with health conditions regularly. It remains committed to responding to this Green Paper consultation with a White Paper later this year.

I hope those points cover the issues raised in your letter. Let me finish by returning to the big picture. We as a Government are committed to working closely with the EU and its Member States on their obligations under the Withdrawal Agreement and will continue to work to ensure citizens' rights are upheld across the EU. This includes through the Specialised Committee on Citizens' Rights, which met most recently on 24 January 2022, and at which I understand you provided an update on pressing issues in Member States. The Committee will continue to meet at least annually, with the next meeting due to take place in mid-2022. The Government also has similar structures in place to monitor the implementation of the Separation Agreement in the EEA EFTA States and the UK-Swiss Citizens' Rights Agreement in Switzerland. We will also continue to work bilaterally with Member States, including via our network of Embassies, High Commissions and Consulates in Europe.

Finally, and as British in Europe closes its virtual doors, I would like to take the time to thank you again for all the work you and British and Europe have done on Citizens' Rights and for the constructive nature of your approach to working with the FCDO.

Yours ever,

A handwritten signature in blue ink, appearing to read 'James Cleverly', with a stylized flourish at the end.

The Rt Hon. James Cleverly MP
Minister of State for Europe and North America