

# East European Resource Centre

## EUSS and vulnerable Eastern Europeans: lessons learnt

3 July 2019

**This paper presents initial areas of concern in relation to the EU Settlement Scheme collected in the process of outreach and delivery of information, advice and assistance to disadvantaged and vulnerable Eastern Europeans in relation to the EU Settled Status (EUSS).**

We gathered these observations and user feedback through outreach to churches, schools, homeless day centres, and other similar organisation as well as through routine advice and assistance delivery in our offices. It's based on 650 interactions with users in the period of between 4 December 2018 and 2 July 2019.

In this context and document, 'users' are Eastern Europeans (nationals of the 2004 and 2007 EU accession countries) that are disadvantaged and vulnerable by the virtue of falling into one or more of the following categories:

- Older people
- Children and young people
- People with disabilities (physical and learning), mental health issues and visual/hearing impairments
- The homeless
- Members of the Roma community
- Victims of modern slavery
- Victims of domestic violence
- People with limited life skills: no or poor English, illiteracy, innumeracy, no or poor social networks, low educational attainment
- People disadvantaged by the virtue of isolation: living in remote areas, living and working in anti-social conditions, working in anti-social hours, living in isolation (e.g. institutions, care homes, safe houses, etc.)

**We grouped areas of concern in the following subgroups:**

1. User engagement and take-up of EUSS
2. Accessibility of the EUSS application process
3. Application window deadline
4. Communications and outreach
5. Advice and assistance provision – capacity and regulation
6. EUSS online product

### User engagement and take-up of EUSS

- There continue to be a **large group of disadvantaged Eastern Europeans who are disengaged** from the EUSS process.
- One of the main reasons is **uncertainty if Brexit is going to happen** so there is no point in engaging in an administrative process that, almost with no exceptions, is seen as burdensome and avoidable regardless of the fact the scheme itself is the least burdensome immigration instrument in the UK.
- Second big issue is the fact that there continues to be a large group of users who believe they **needn't apply** for EUSS because:
  - 1) they've been here very long (usually 10+ years),

- 2) users believe 'the state' knows about them already as they pay taxes and overall conduct lawful residence. There is no understanding that the application process is in fact an act of allowing Home Office (HO) to access data held already - people believe that HO would or should just check their residence without any involvement from them. The latter can be explained by the fact that many central European states have central residence databases and resident registration systems run by local authorities, with central authorities having access to check and confirm one's place and period of residence for various administrative purposes
- 3) some users see themselves as mobile Europeans, i.e. they don't feel 'settled'. There seems to be no understanding that the Settlement Scheme applies to them as well if they wish to continue delivering services or periodic residence in the UK after Brexit.  
Examples are: grandparents periodically coming to help looking after children, traders and consultants delivering services in more than one EU country, people owning property in other member states thus considering themselves 'settled' there even if they actually living and working in the UK, people accessing seasonal jobs  
In many cases those 'mobile Europeans' are fully and truly settled in the UK but their perception is different, and they don't associate the EUSS with an immigration instrument but with 'settlement'
- 4) people with any criminal convictions are particularly apprehensive of the process.

### Accessibility of the application process

- Surprising high number of users **don't have smartphones or home broadband** or mobile data - it's often connected to financial difficulties.
- Surprising high number of users **don't operate smartphones and email even if they have them**. Common solution is 'having someone' to log in to email; smartphones are used like 'dummy' mobiles, i.e. to call and text.  
There is **no significant age differentiation** - people as young as 30 years old are technologically excluded from using smartphones and emails as well. We think this exclusion is linked to performing jobs that don't require electronic communication, e.g. where the whole business is conducted over the phone or in person. Common example are construction workers or cleaners that have their trusted agencies or networks where they acquire commissions.
- Users disengage from the process when the application finds no data held on them in 'the system' - even though there is a facility to upload additional evidence. This problem disproportionately affects women who often join their husbands or partners as a stay-at-home parent.  
In such scenario the breadwinner (usually a man) has employment and holds tenancy and bills so the choice of 'additional documents' is poor. The consequence is **significantly higher advice needs** to help these users to engage and go through the process.
- The application **doesn't allow users to go one or more steps back** when they realise they made error. Users have to submit the erroneous application and contact the Resolution Centre (RC) - there is more on the RC in lower paragraphs.  
There is **no reason why** this facility shouldn't be provided – it would increase users' confidence, help them carry on, and not expose them to stress of contacting the Resolution Centre (where they drop from the process.)

### Application window deadline

- We believe that the EUSS application window needs to be **extended** at least 12 months, to end of December 2021. The reason for it is the move of Brexit date and tendency of users to hold back until they actually are sure that the UK is leaving the EU (as mentioned above.)  
The application window doesn't require extending eligibility criteria to those arriving after the final leaving of the EU, including the implementation period if occurring. It's crucially important that those who are in the UK

at the date of Brexit (in 'no-deal' scenario) or at the end of the implementation period (in 'deal scenario') have enough time to meet this immigration requirement. Reasons why believe they might not are below.

- **Documents necessary for application are not easy to obtain:** issuing of the Polish passport can take up to 6 months, and longer depending on a member state. It is particularly important in states where obtaining a passport requires holding an ID card (e.g. in Poland and Romania) - the process can be long and costly, in particular when users have to travel to homeland to apply for one or more documents, and stay there to pick it up.  
Families and users with dependants are looking at multiple costs and even more time.
- **Outreach in current capacity supported by the Home Office EUSS grant scheme is unable to reach those who can fall through the cracks.** There simply aren't enough outreach advisers to reach all before December 2020, and with the unsatisfactory state of general communications from HO and lack of linguistically appropriate support systems within or commissioned by the Authority this outreach is necessary.

### Communications and outreach

- Home Office communications are not sufficient to help users access and successfully go through the application process. There are no easily accessible general information materials for people in their own languages. We believe that it's **HO responsibility to provide the essential awareness and information to users** as well as **guidance on application process**. That guidance exists in national languages but is not easily accessible to users with any vulnerabilities or isolated.
- As support providers for vulnerable users funded via the Home Office EUSS grant scheme, we often feel placed in the position of having to raise awareness of the scheme while it is not primary purpose of the funding we have received, and in any case we have **no capacity to additionally perform generic awareness-raising duties**.
- We understand it there is a difference between communications and outreach - and both are often confused. **Communications** inform and raise awareness, and **outreach** is about reaching out to those who are excluded from communications by the virtue of isolation, poor literacy, linguistics, being a victim of trafficking, modern slavery or other crime, being in institution or care, etc.
- Based on our experiences, **the general information materials for users** should include as the minimum:
  - 1) explanation of the reason why the scheme exists and link it up firmly with the process of exiting the EU - this link is not clear for an average user and leads to disengagement already mentioned above
  - 2) explanation of available avenues of providing residence evidence: HM Revenue & Customs (HMRC) and Department of Work and Pensions (DWP) records accompanied by additional evidence in cases where HMRC/DWP transfers don't cover sufficient period of time.  
In particular, users need to know that the HMRC/DWP records check is only one, the first and simplest way to prove residency in the UK. Users being told by 'the system' that there is no evidence of their residence via HMRC/DWP records check experience considerable stress and tendency to immediately disengage from the process.  
Users should be prepared that this may happen by reading accessible easy-language materials supported by animations for those struggling with literacy (in particular, legal literacy!)
  - 3) explanation of how linked applications work so that users without sufficient easily obtainable additional documentation, e.g. spouses or dependants, are encouraged to access the scheme without too much stress and disengagement
  - 4) explanation of the EUSS product - that is an immigration instrument that is likely to be required in near future for a number of essential services
  - 5) explanation how the EUSS product can and cannot be used, including what to do if the EUSS rights are abused, in particular discrimination in accessing formal labour, housing and financial markets

- 6) explanation of the family rights linked to the EUSS, in particular following the final exiting the EU (after the implementation period if there would be any)
  - 7) explanation of the position of the 3rd country family members within the system. This group is particularly poorly catered for in terms of communications, information and advice, hence at heightened risk of exploitation and abuse
  - 8) explanation of relationships among various other immigration instruments and the EUSS. For example, one of our users was told by a friend (equally poorly informed) that after obtaining the EUSS he can throw away his EU Permanent Residency document as useless. There is no awareness that various instruments coexist and don't automatically expire, and can be used later on should the user choose a pathway to citizenship
  - 9) explanation of treatment of criminal record to encourage users with any convictions, cautions, investigations, etc. to access the scheme without fear of removal or deportation from the UK
  - 10) what are the steps when a passport, to which chip the EUSS is imprinted, expires
- **Home Office should promote information in the community media in people's own languages**, e.g. using very short easy-read articles or textual adverts. **It needs be done through printed as well as social media** to reach all ages and abilities.
  - It has to be highlighted that vulnerable users very often rely solely on their national electronic media watched via internet and Brexit is not often mentioned due to various daily issues going on in member states - they don't access the British media due to linguistics, community isolation, general level of integration to the mainstream society (esp. people resident less than 4 years in the UK.) This is why reaching users through local community media is of paramount importance.

#### Advice and assistance provision - capacity, regulation

- Users seek the whole package: **information, advice and assistance** in accessing the scheme.
- **Advice** is particularly important in cases of people not recognised by the system (i.e. requiring additional evidence), 3rd country family members, people holding other valid immigration instruments, children (young and adult) of mixed relationships in terms of immigration, people with the criminal justice history and in probation, frontier and delegated workers, and mobile Europeans as they may struggle to understand requirements relating periods of stay.
- Advice is being sought by approx. **95% of users** regardless if their cases are simple or complex, and if users qualify as 'vulnerable' in the EUSS definition or not.  
The process of applying to HO to acquire an immigration status is so traumatising, especially taken together with the request to follow online and mobile process, that users seek support regardless of their abilities and a life situation. Information and assistance provision (without advice) doesn't require registration / accreditation but cases where only information and/or assistance exist without the advice component are very rare - literally all users require personalised advice for interactions to be meaningful and encouraging for engagement with the EUSS scheme.
- Current **capacity of accredited immigration advice is very low**. In some areas of the country is almost non-existent. Those registered immigration advisers who are available often don't speak any Eastern European or European languages. We expect that immigration solicitors might soon be engaged mainly in complex cases.

#### *Context:*

*Immigration information, and assistance (filling in forms) is not a regulated activity. Advice, and services (acting fully on behalf of the client) is regulated activity that require registration with the Office of Immigration Services Commissioner (OISC), Solicitors' Regulation Authority (SRA) or the Bar. Here we set aside the solicitor and barrister regulation and focus on the immigration adviser.*

*The process of accreditation requires being an employee of an organisation that is registered with the Office of Immigration Services Commissioner (OISC). Registered organisation cannot provide immigration advice and services without a named, accredited individual.*

*Currently individual's accreditation requires passing a level 1 exam that includes the whole immigration system (visas, asylum, EEA) and allow the adviser to work on cases that require only simple application of Rules; following levels 2 and 3 are more difficult to pass as are required in cases that require any form of the immigration law interpretation.*

*The EUSS accreditation is technically a lower registration within the level 1 and applies only to EUSS processes. It is granted after attending a training day but the organisation hosting the EUSS adviser has to be registered with OISC nevertheless at a minimum level 1.*

- As a result, potential advisers are discouraged from registering due to lack of hosting organisations of whom they have to be an employee - serving as a sole trader (as in solicitors' and barristers' cases) is unlawful and such registration is not possible. Companies don't want to register as it's an additional administrative burden, and a cost for companies/orgs that charge a fee (£575 p.a. for level 1 work) which all but grant-funded charities do to sustain the service.
- Therefore, there is a significant **immigration advice underground** of companies, in particular those being set up within linguistic communities and catering for their specific needs re: EUSS, that provide immigration advice and services without registration, accreditation, any supervision, or quality control. Usually these would be community-born accountancy services, financial services brokers (often unregulated as well), money lenders, etc. - local familiar providers of essential services for disadvantaged workers and their families.
- These companies charge extortionate fees for a simple EUSS application: according to our informal 'grey market' research, fees range from £150 to £600 per each EUSS application. The average market price seems to be **£200**. For a family it may be over £1,000 in total - and it means loans (including loan sharks), etc. but above all an attempt to 'save' on the EUSS application by putting off applying by these family members that don't play essential welfare role; these often would be children or older people (grandparents) due to their non-working status.
- The quality of work is **very poor**: users are granted the pre-Settled Status (pre-EUSS) where there is additional evidence that would allow them to gain full EUSS. It's because those 'advisers' have very low understanding of the Scheme themselves and often don't command required English to inform themselves or successfully complete full application. Cutting corners and shortening interactions, and overall low ethics play role too.
- We are doubtful about the quality of advice on criminal convictions as well. Advice to neglect disclosing the criminal record as required may have serious consequences for future applications, e.g. naturalisation.
- Delivery of these services render the 'advisers' criminal so we expect that users might be somehow **forcibly discouraged** from disclosing the business arrangement, including by threats of violence. Anyway, users routinely reject reporting those outfits to the OISC for fear of being dragged in front the justice system and possibly having their safety and privacy compromised.

It's fundamental to note that this applies in particular to closed, isolated communities of disadvantage that tend to be close-knit, self-controlling and self-policing. These communities as whole and members as individuals struggle to integrate with the mainstream society and therefore create parallel worlds of advice and support. Hence users' safety is a genuine consideration.

- **Immigration advice and services regulation require urgent review if vulnerable EUSS users are to be protected from extortion, abuse and further disadvantage.** The actual exiting the EU will only deepen and amplify the problem as users will have to operate using the EUSS as an immigration instrument, will require

help with family reconnections, change of passport details (EUSS is 'imprinted' in a chip) and will require help with using actual EUSS online status (more below)

- We would also like to see **the OISC investigative teams strengthened and simple reporting tools (maybe online?) introduced so that fighting the immigration advice cowboys can be effective.**
- Both HO's generic support mechanisms to aid users are insufficient. There are two key such mechanisms: the Resolution Centre that helps users in the administrative process of applying for instruments, and Digital Assisted that is a contracted out service that assists people with no IT skills. **Neither Resolution Centre nor Digital Assisted has a language provision.** Even more so, users on learning that Resolution Centre requires English disengage completely and rather leave the application process altogether, and presumably the UK as a result sooner or later.

There is no reason why both Resolution Centre and Digital Assisted should be English-langue only operations in the case of the EUSS. The **English language requirement cannot apply to EU nationals, whose residence in the UK precedes any such future requirement**, as is currently the case in other immigration schemes (where users are supposed to possess certain English language skills level as a requirement of a visa).

**Thus we find it not fair that the EU applicants are deprived of the simplest, most effective and efficient tool of support in their attempts to engage with the EUSS scheme, namely the language support.**

- Additionally, Resolution Centre's advice to users (not immigration advice that cannot be provided but advice on the progress of a case) is **inconsistent and differ from adviser to adviser** which is unacceptable and instil lack of trust in Home Office.
- **Overall, we fear that lack of adequate general information, accessible advice, consistent internal HO support mechanisms for users (Resolution Centre), a difficult pathway to become a legitimate immigration adviser, and weak execution of immigration advice regulation create good conditions for the repeat of the Windrush generation's difficulties. Taking into account sheer numbers of people potentially concerned, it would be a disastrous outcome.**

### EUSS online product

- EUSS status exists as an **online product only** therefore **all issues and precautions relating its future use are the same as with the EUSS application**: literacy, IT literacy, specific ability to navigate online databases, access to broadband or mobile data, difficulties related to frailty of age or disability, etc.
- users already use the EUSS instrument, e.g. to support welfare and housing applications. Because there is no decision letter or a plastic card, users settle for taking a screen shot of their whole immigration profile held in HO to send to decision-makers. It's a serious breach in data protection but there is **no other channel to evidence the holding of the EUSS.**  
We haven't received information how DWP is going to access relevant data from the user's online account as now there is no access link that can be sent. Such link is to guarantee access for landlords and employers once EUSS is required.
- users are also asked to show they hold EUSS to obtain work or rent accommodation even though **it is illegal to ask them to do so until the end of 2020.** Nevertheless, there is no other avenue for some to secure jobs or tenancy so they feel forced to pass on information about their immigration status. We are aware of users who had job offers withdrawn, which is of course unlawful discrimination, and similar with tenancies. We also were informed of workers whose T&C of employment were worsened due to the change of immigration status. **There is no clear information and pathway to report and fight the abuse of the immigration status change, and the abuse of/discrimination based on EUSS.**
- We have discovered that users are encouraged to **pass on all their log in details to online product to strangers**: prospective employers or landlords - it is very dangerous as these details include D.O.B, passport number, email address. Often landlords or employers themselves have IT skills insufficient to access the

information and we don't know how many people can be suddenly involved in holding the user's sensitive personal data. **There is a risk that the fact the EUSS exists only online will create a large work and housing underground, with rogue landlords, employers, financial providers ensuing.**

- We ask that the EUSS is delivered in at least one of these:
  - 1) a mandatory **decision letter** clearly stating the decision (which may be a printable PDF to save costs)
  - 2) a **plastic card** (which may be charged a modest price, or a price of a passport to cover costs, and can be a voluntary option for users). The card can have a 10 or 15 years expiry period and be renewed like a passport is.

East European Resource Centre is an independent charity (reg. no.: 1114607) that has been providing advice and resources for disadvantaged, marginalised and excluded Eastern Europeans since 1984.

Our work is delivered directly in the Greater London and Home Counties areas, and in other areas of the UK through a network of partnerships. We specialise in information, advice and support in areas of welfare, housing, immigration (EU/EEA), employment rights, exploitation and modern slavery, hate crime, debt, and skills training such as English language and employability.

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Any questions relating this document should be directed at Barbara Drozdowicz, [barbara@eerc.org.uk](mailto:barbara@eerc.org.uk)

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