



Briefing on the likely impact of the end of the European Settlement Scheme on families with no recourse to public funds

Produced as background reading for the registered members of the APPG on No Recourse to Public Funds ahead of the 7th of July 2021 panel discussion.

Background:

Brexit and EUSS

The 30th of June 2021 marked the date (the end of the 'grace period') by which EEA nationals and their family members, who were living in the UK by 31 December 2020, had to make an application under the EU Settlement Scheme (EUSS) in order to obtain a form of leave to remain (settled or pre-settled status) and secure post-Brexit residence rights. Additionally, certain close current family members and future children of EEA nationals with settled or pre-settled status will be entitled to apply under the EU Settlement Scheme rather than meeting the family migration requirements of the Immigration Rules. EU nationals who arrived in the UK after 31.12.2020 must apply for a visa and will be subject to a NRPF condition.

Families with NRPF

It is anticipated that many EEA nationals, particularly those with underlying vulnerabilities, will have missed the application deadline at the end of the grace period and will find themselves with an irregular immigration status liable to detention and removal.

This may be particularly true of families with no recourse to public funds as their inability to rely on the welfare safety net means they are often under significant pressure to make ends meet. Many are lone parents with multiple caring and work responsibilities making it difficult to find the time to engage in such processes. Many do not have well established support networks and may simply have been unaware of the need to make an application under EUSS. In addition, many may experience homelessness and destitution as a result of the NRPF condition. This can contribute to chaotic lifestyles making participation in administrative processes more laborious and complicated e.g. the absence of a permanent address makes it more difficult for people to access information and receive letters and forms in the post.

Some may struggle with limited literacy or have English as an additional language and would struggle to make the application on their own. Many lack passports for themselves and their children making the application process more complex. Many require legal advice and support to make an application but such advice and support has been difficult to access.

Concerns:

Increase in the total number of individuals subject to NRPF:

Families with NRPF can sometimes access support through local authorities under Section 17 of the Children's Act 1989 which imposes a general duty on local authorities to safeguard and promote the welfare of 'children in need' in their area. Local authorities do not receive dedicated funding for this support. The increase in the number of people with no recourse to public funds is likely to dramatically increase the burden on already

overstretched local authorities. We believe this will have a negative impact on EU and other families with NRPF as they may face further delays in accessing support, increases in hostile gatekeeping behaviour, and potential breaches of children's human rights as families struggle to access the support they need to ensure health and development.

Many will have missed the deadline:

It is possible to make late applications under EUSS. However, on the 1st of July the free movement laws that had protected European residents came to an end and European residents who have not made an application under EUSS are now subject to UK immigration control and will be liable for detention and removal. The Home Office has said that eligible individuals will be given 28 days to make an application.

We are concerned that:

- Those who missed the deadline stand to lose access to healthcare and other support in the interim and that this may constitute a serious risk to families' health and wellbeing.
- EEA nationals who are currently in receipt of support under Section 17 of the Children's Act 1989 may lose this support if they have not made an application in time. This may leave families with NRPF at risk of destitution and homelessness.

Pre-settled status and lack of access to benefits:

Under EUSS, those who have less than 5 years residence in the UK, are given Pre-Settled Status. Currently, people with pre-settled status are generally unable to access most benefits and social housing (public funds). This places people at risk of homelessness and destitution and in some cases disrupts ongoing support. This is currently subject to a legal challenge awaiting the ruling of the Supreme Court - (*Fratila and Tanase v SSWP & AIRE Centre* – more details [here](#)). Whilst we await the ruling of the court many families find themselves in an impossible situation unable to access the support they need.

Non-EU carers of British children and the High Court ruling in [Akinsanya v SSHD](#)

On the 9th of June 2021, the High Court ruled that the Home Office guidance, which had excluded non-EU primary carers of British children (so called Zambrano carers) from applying under the EUSS, if they already had, or could apply for, permission to remain under a different route was unlawful. The ruling came only weeks before the EUSS application deadline and potentially opened up applications for thousands of eligible families. The Home office is appealing the ruling. (More information on *Akinsanya v SSHD* and its implications can be found [here](#))

The Home Office have agreed an extension for applications until guidance has been redrafted however we are concerned that thousands of eligible families remain unaware of their potential right to apply under EUSS. In addition, many of those who have now become eligible to apply will need immigration advice to determine whether or not they want to apply under the EUSS as this is likely to be a complex decision for many families.

We are concerned that many families with NRPF will have faced challenges in applying under EUSS for the reasons outlined above and that this means many families could be facing destitution and homelessness as a result.

For any questions about this briefing or for further information, please contact Kris Harris at appg@project17.org.uk.