

By email: Kevin Foster MP, Minister for Future Borders and Immigration  
Home Office SUG team  
Citizens' Rights and Mobility Unit, Foreign, Commonwealth and Development Office

Dear Kevin Foster MP,

### **Delays to Certificates of Application and EUSS Family Permits**

We are writing to express our ongoing concerns regarding delays within the EU Settlement Scheme.

As you will be aware, we compiled a report to the Independent Monitoring Authority in November 2021 (<https://www.the3million.org.uk/ima-report-nov-21>) focusing exclusively on the extent and impact of these delays, and to demonstrate that these delays are occurring at every component stage of people's journey to acquiring the status they are eligible for.

### **Delays to Certificates of Application (CoAs)**

In correspondence between the3million and the Home Office, [we have been told](#) that these delays only happen when:

- people make paper applications;
- someone is required to post their identity document to the Home Office for verification; or
- a non-EEA national family member needs to make a biometric enrolment appointment

The same letter also states *"For those using the Identity Verification (IDV) app, validation of identity and taking of facial image biometrics happens during the online application process, and a CoA is issued automatically once the application is submitted."*

On Monday 24 January we attended the meeting of the Specialised Committee on Citizens' Rights, and we raised there the issue of ongoing delays to Certificates of Application. We made two main points:

1. We do not accept that biometric appointments are a valid prerequisite for issuing CoAs
2. We see delays to CoAs being issued even when people make straightforward digital applications

The Home Office representative replied on the former point that biometrics were essential prerequisites to combat spurious EUSS applications, and on the latter that straightforward digital applications result in **automatic** CoAs. We agreed to send on some examples, with UAN references, to demonstrate that this was not the case, and we have done so in separate confidential correspondence.

We would now like to ask the following questions:

Q1. Article 18(1)(b) of the Withdrawal Agreement states: “A certificate of application for the residence status shall be issued immediately;”. How is the current Home Office process to delay the issuing of CoAs compatible with this statement:

- a. for EEA/Swiss applicants who apply with a valid identity document using the “EU Exit: ID Document Check” app, completed with an online application, without having been asked for any subsequent identity information?
- b. for non-(EEA/Swiss) applicants who apply with a valid identity document using the “EU Exit: ID Document Check” app, completed with an online application, who are asked to make an appointment to provide biometric information, also bearing in mind that it can be months before any free appointments are available?
- c. for applicants who are unable to use the “EU Exit: ID Document Check” app because they are for example the family member of a Lounes EEA-British dual citizen?

Q2. We do not accept that these delays are necessary due to spurious/speculative/fraudulent applications, as indicated by the Home Office representative at the Specialised Committee on Citizens’ Rights meeting on 24th January. Indeed, it is unclear on what basis this would influence a decision not to issue certificates immediately after an application has been submitted.

Could you provide insight into the numbers of cases identified as being spurious/speculative/fraudulent and why this has influenced the Home Office’s decision not to issue certificates immediately?

### **Delays to EUSS Family Permits**

We have had a large number of reports of people waiting an extremely long time for EUSS Family Permits, most in excess of 12 weeks up to over a year at the time of reporting to us. We have also seen reports of long delays to EUSS Travel Permits for those stuck abroad with a lost, stolen or expired BRC (see the separate letter we wrote to you on 6 January 2022).

Many of these people have told us that when they tried to get an update on their situation via the resolution centre or paid for communication services provided by Home Office partners, they were informed that applications are done in strict date order, and that they need to be patient. We have seen a letter from the Home Office to an MP confirming this:

*“As previously advised, there is currently no service standards for deciding EUSS applications. Applicants are advised that they will get a decision as soon as possible.*

*Further information can be found at: [www.gov.uk/guidance/visa-decision-waiting-times-applications-outside-the-uk#commonwealth-citizens](https://www.gov.uk/guidance/visa-decision-waiting-times-applications-outside-the-uk#commonwealth-citizens).*

*The Home Office appreciates that the delay is frustrating to [...] and her family, but it is currently receiving a high volume of applications and all cases are being dealt with in strict*

*date order. Please reassure [...] and her family that their applications will be concluded as soon as possible."*

The Government's web page on 'Visa decision waiting times' (link as above) states that for other family reunion visa applications, people should get a decision within twelve weeks. However, for EEA or EUSS family permits there is no service standard, and the page merely states:

*"If you are applying for an EEA family permit or an EUSS family permit you will get a decision **as soon as possible** after proving your identity and providing your documents."*

As you will of course be aware, there are broadly two groups of people applying for EUSS Family Permits:

1. family members of EU citizens (or eligible person of Northern Ireland) resident in the UK before 31 December 2020, or 'joining family members'; and
2. family members of returning British citizens, or 'Surinder Singh applicants'

Article 14(3) of the Withdrawal Agreement states:

*"Where the host State requires family members who join the Union citizen or United Kingdom national after the end of the transition period to have an entry visa, the host State shall grant such persons every facility to obtain the necessary visas. **Such visas shall be issued free of charge as soon as possible, and on the basis of an accelerated procedure.**"*

The delays we are seeing are not compatible with an accelerated procedure.

Surinder Singh applicants are affected by a domestic deadline set by the UK Government, namely they have until 29 March 2022 to return to the UK and apply for status under the EU Settlement Scheme. This date is less than eight weeks from now.

We have seen correspondence from the Home Office that says: *"If they applied by that deadline for the EUSS family permit, they will have reasonable grounds for applying late to the EUSS if they were issued the family permit after 29 March 2022 and so returned to the UK after that date."*

However, the impact on families from both groups facing extended delays is serious. This impact is made worse by the fact that people have to make concrete life decisions based on expected processing times, and many were told at the time of their application that their Family Permit should be issued within 15 working days.

As an example, one respondent told us:

*"When I did the biometrics in September, I was told it would take 15 working days. In the meantime they kept my passport. We planned to move just before Christmas, thinking everything would be fine then.*

*In November I got a confirmation email from UKVI, saying my application is prepared for decision making. I assumed it would take maybe a few days after this.*

*In early December I tried calling all the phone numbers on the Gov.UK website but kept getting an automated message saying "Thank you for your call, goodbye". A few days later I finally got through and was told the standard processing time is 12 weeks! I went back to the Visa centre and there were now notes up everywhere saying it will take longer and they cannot give estimates.*

*I could “buy” (!) my own passport so that I could travel to the UK to at least celebrate the holidays with my partner’s family. I did that and also emailed Gov.UK to escalate my case, since it had been 12 weeks. I was told that it would take 15 working days from being escalated but I still have not received my decision.*

*In January I called again and was told that an escalated case cannot be escalated again, and also that since other people are also requesting escalation of their case, I had to wait my turn.*

*My partner and I both quit our jobs in December. So we don't have income at the moment. We did go to the UK before the holidays. I have a return ticket booked, because I am here as a tourist.*

*But we only booked an Airbnb for a month, so we could find a rental in that time. We have found a rental flat, but we have to pay 6 months up front, because we don't have an credit or previous landlord references.*

*But I cannot be a tenant, because I don't have the right to live here. I will have to go back without my partner at some point. So we will be separated, who knows for how long.*

*This whole situation is making us very stressed. I have actually gotten acne again and have developed a skin condition on my scalp. I'm 100% sure it's from the stress.*

*I am very stressed about the fact that I'm not going to make the deadline of 29-03-2022 to move to the UK.*

*In the meantime I have no income. There is no point looking for a job in [my country of origin], because by the time I find something, I will have to move.*

*I also feel like I'm not taken seriously. It's like they don't realize people's lives are on hold and they are separated from loved ones. It's not like you make the decision to move countries overnight.*

*And there are deadlines for applications and moving, but the government doesn't have to stick to any deadlines?!”*

We have received many similar reports, often including young children and families separated. In one such case the children received a Family Permit while their mother was still waiting six months later, when the children’s permits had expired.

We ask the following questions:

Q3. How can a lack of service standards for EUSS Family Permits, and regular reports of decision times of over twelve weeks, be considered compatible with “an accelerated procedure” as specified in Article 13(4) of the Withdrawal Agreement?

Q4. The current EUSS Family Permit and Travel Permit statistics available at <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-september-2021/why-do-people-come-to-the-uk-for-family-reasons> provide only quarterly data, not broken down between types of application including those relying on being the family member of a relevant EEA citizen and those relying on being the family member of a

qualifying British citizen, and do not provide any information on processing times. Can you therefore provide us with the following data for the most recent 12 months available, broken down by month and type of application?

- Number of EUSS Family Permit and EUSS Travel Permit applications
- Number of EUSS Family Permit and EUSS Travel Permit decisions, broken down by decision type
- Average processing time of EUSS Family Permit and EUSS Travel Permit applications

Q5. Will the Home Office extend the 29 March 2022 deadline for Surinder Singh EUSS applications given the fact that *all* EUSS Family Permits are processed in strict date order (i.e. both those family permit applications relating to applicants subject to the deadline in eight weeks' time, and those that are not) and given that the Home Office has acknowledged that there are long delays resulting from a high volume of applications?

Kind regards,

Monique Hawkins

Policy and Research Officer, **the3million**