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Title: EU Exit Working Group – Letter to the Mayor on EU Citizens in London

### **Executive Summary**

On 13 January 2021, the GLA Oversight Committee resolved:

*That authority be delegated to the Chair of the GLA Oversight Committee, in consultation with party Members of the EU Exit Working Group, to agree any outputs of the EU Exit Working Group for the period up until the May 2021 GLA Elections.*

Following consultation with EU Exit Working Group Members, the Chair agreed the Committee's letter to the Mayor on the issues facing EU citizens in London, which will be attached at **Appendix 1** after formal publication.

The terms of reference for this project were approved by the Chair under delegated authority. Officers confirm that the letter and its recommendations fall within these terms of reference. The letter will be reported back to the next appropriate meeting of the GLA Oversight Committee for formal noting.

### **Decision**

That the Chair, in consultation with EU Exit Working Group Members, agrees the Committee's letter to the Mayor on the issues facing EU citizens in London, as attached at **Appendix 1**.

### **Assembly Member**

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

**Signature**



**Date** 12/02/2021 (by email)

**Printed Name**

Len Duvall AM, Chair of the GLA Oversight Committee

# Decision by an Assembly Member under Delegated Authority

*Notes:*

1. *The Lead Officer should prepare this form for signature by relevant Members of the Assembly to record any instance where the Member proposes to take action under a specific delegated authority. The purpose of the form is to record the advice received from officers, and the decision made.*
2. **The ‘background’ section (below) should be used to include an indication as to whether the information contained in / referred to in this Form should be considered as exempt under the Freedom of Information Act 2000 (FoIA), or the Environmental Information Regulations 2004 (EIR). If so, the specimen Annexe (attached below) should be used. If this form does deal with exempt information, you must submit both parts of this form for approval together.**

**Background and proposed next steps:**

On 13 January 2021, the GLA Oversight Committee resolved:

*That authority be delegated to the Chair of the GLA Oversight Committee, in consultation with party Members of the EU Exit Working Group, to agree any outputs of the EU Exit Working Group for the period up until the May 2021 GLA Elections.*

Following consultation with EU Exit Working Group Members, the Chair agreed the Committee’s letter to the Mayor on the issues facing EU citizens in London, which will be attached at **Appendix 1** after formal publication.

The terms of reference for this project were approved by the Chair under delegated authority. Officers confirm that the letter and its recommendations fall within these terms of reference. The letter will be reported back to the next appropriate meeting of the GLA Oversight Committee for formal noting.

**Confirmation that appropriate delegated authority exists for this decision**

Signed by Committee Services	L J Harvey	Date	09/02/2021
Print Name: Lauren Harvey		Tel:	x4383

**Financial implications**  
**NOT REQUIRED**

Signed by Finance	N/A	Date	.....
Print Name	N/A	Tel:	.....

**Legal implications**

The Chair of the GLA Oversight Committee has the power to make the decision set out in this report.

Signed by Legal



Date 09/02/2021

Print Name

Emma Strain, Monitoring Officer

Tel: X 4399

Additional information should be provided supported by background papers. These could include for example the business case, a project report or the results of procurement evaluation.

**Supporting detail/List of Consultees:**

Andrew Boff AM (Deputy Chair of the EU Exit Working Group), Caroline Pidgeon MBE AM, Caroline Russell AM and Peter Whittle AM

**Public Access to Information**

Information in this form (Part 1) is subject to the FoIA, or the EIR and will be made available on the GLA Website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** this form (Part 1) will either be published within one working day after it has been approved or on the defer date.

**Part 1 – Deferral****Is the publication of Part 1 of this approval to be deferred? No**

Until what date: N/A

**Part 2 – Sensitive information**

Only the facts or advice that would be exempt from disclosure under FoIA or EIR should be included in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form - No****Lead Officer/Author**

Signed

Dan Tattersall

Date:  
09/02/21

Print Name

**Dan Tattersall**

Tel: x1328

Job Title

**Senior Policy Adviser**

Countersigned by  
Director

*E. Williams*

Date:  
10.02.2021

Print Name

.....  
**Ed Williams**

Tel: x4399

# LONDON ASSEMBLY

**City Hall**  
The Queen's Walk  
More London  
London SE1 2AA  
Tel: 020 7983 4000  
[www.london.gov.uk](http://www.london.gov.uk)



**Len Duvall OBE AM**  
**Chair of the EU Exit Working Group**

Sadiq Khan  
Mayor of London  
(Sent by email)

16 February 2021

Dear Sadiq,

On 26 January 2021, the London Assembly EU Exit Working Group met to discuss the Brexit deal and its effect on London and Londoners. During the meeting we heard from Professor Charlotte O'Brien from York Law School, who is the Principal Investigator at the EU Rights and Brexit Hub and Dr Alice Welsh, a University of York Research Fellow at the EU Rights and Brexit Hub. They conveyed to the Working Group some pressing issues for European citizens living in London, which we recommend you take action on both directly and through engagement with the Home Office.

These areas for action relate to hard to reach and vulnerable EU citizens in London, gaining clarity over acceptable grounds for late application to the European Union Settlement Scheme (EUSS), ensuring citizens with a permanent residence document understand that they do not have a right to reside after 30 June 2021, and ensuring employers and authorities understand the rights of Londoners with pre-settled status.

Our discussion also acknowledged the significant impact that COVID-19 has had on the ability of organisations that are supporting EU citizens through the changes to immigration rules. The fact that a lot of organisations have had to work remotely means that they have been less visible, are less likely to have reached new clients, and that this is particularly true of people who are vulnerable.<sup>1</sup> Professor O'Brien expressed serious concern about this issue, stating, "...clients who have a low degree of English literacy or technological literacy, who are

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<sup>1</sup> [Information on Coronavirus for Non-UK Nationals](#), London.gov.uk

remote, who have reduced capacity, are made even more vulnerable by the current circumstances. That makes the cohort of people who are going to lose their rights even greater.”<sup>2</sup>

The Working Group is aware of the work you are carrying out through the European Londoners Hub, to support European Union citizens living in London to secure their rights and provide funding to community groups that are providing information to European Londoners.<sup>3</sup> The information and recommendations below are designed to be constructive in suggesting where further efforts should be focused, as the deadline for applying to the EUSS draws closer.

### **Hard to reach and vulnerable EU citizens in London**

The Working Group was concerned to hear about the potential for many Londoners to unknowingly become undocumented migrants on 1 July 2021, and the lack of reliable data on this issue. These are people who may not be fully aware of their need to register with the EUSS because they are vulnerable, do not have access to technology, or are in hard to reach communities. The Institute for Government’s November 2020 report *Preparing Brexit: How ready is the UK?* states that the data for the number of EU citizens in the UK is ‘unreliable’. The report highlights that although four million EU citizens have already applied to the EUSS, there is no way of knowing how many more people are yet to apply.<sup>4</sup> This creates a serious challenge to local authorities and organisations that are trying to ensure people have achieved settled or pre-settled status before the June deadline, especially in attempting to target Europeans that are particularly hard to reach.

Research published in January 2021 by the Joint Council for the Welfare of Immigrants (JCWI) exemplifies the potential scale of the issue. The JCWI surveyed 240 care workers between January and March 2020, finding that one in seven did not know or were not sure what the EUSS was, and that one in three did not know that there was a deadline for the EUSS or did not know when it was.<sup>5</sup>

We note, in the letter you sent to the Working Group on 25 January, that you have awarded £180,000 in grants to community groups, enabling them to reach 2,800 Europeans and their families.<sup>6</sup> However, the Working Group is not clear on what proportion of hard to reach European Londoners you calculate this to represent, and therefore how many more European Londoners you are aiming to reach before 30 June 2021.

### **Recommendations**

1. The Working Group asks you to advocate for the Home Office to release their best estimates of how many EU citizens are left unregistered with the EU Settlement Scheme so that they can be helped by organisations such as those being supported by you.
2. The Working Group asks you to publish your best estimate of how many Londoners remain at risk of becoming an undocumented migrant on 1 July 2021, and provide the Working Group with details on how this estimate is driving your support and outreach work to assist as many people as possible between now and the deadline.

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<sup>2</sup> [Transcript of the London Assembly EU Exit Working Group – Appendix 5](#), 26 January 2021

<sup>3</sup> [European Londoners Hub](#), Mayor of London

<sup>4</sup> [Brexit Preparedness Report](#), Institute of Government

<sup>5</sup> [When the clapping stops: EU care workers after Brexit](#), Joint Council for the Welfare of Immigrants, January 2021

<sup>6</sup> Letter from Mayor of London to the Chair of the EU Exit Working Group, 25 January 2021

## **Late applications**

The Working Group heard that EU citizens, and the organisations supporting them, require clarity over late applications to the EUSS after the 30 June deadline. In the evidence provided to the Working Group, Professor O'Brien noted that the Home Office's position is that there will be allowances for late applications as long as there is 'good reason', however there has not been clear guidance issued as to what this means in practice.<sup>7</sup> There is concern that without this guidance, supporting organisations will be unable to plan contingencies for those who do not apply in time.

In particular, further clarity is required over whether a lack of awareness of the EUSS and the deadline would be considered a 'good reason'. As set out above, there are potentially many EU citizens who might not be aware of the scheme at all, whether that be through marginalisation or digital exclusion. It is also worth noting that the COVID-19 pandemic is likely to have exacerbated existing issues for these people, as it has impacted their ability to access the face-to-face services they need to help them with information provision and completing their application.

There are potentially serious consequences for anyone who does not apply to the EUSS in time and is subsequently judged not to have 'good reason' for doing so, including losing all accrued entitlements and rights.<sup>8</sup> It is vital, therefore, that this information is provided by the Home Office and due consideration is given to the potential delays caused by the COVID-19 pandemic.

## **Recommendation**

3. The Working Group asks you to request that the Home Office provides clear guidelines as to what would be considered a 'good reason' for missing the 30 June 2021 deadline to apply for settled status and pre-settled status, and in particular seek clarity over how a late application due to lack of awareness would be processed and how that would need to be evidenced.

## **Confusion over permanent residence**

The Working Group is concerned that there may be a number of people who have a permanent residence document issued by the Home Office and are under the incorrect impression that they have established their right to reside beyond 30 June. Professor O'Brien informed the Working Group that a number of people, particularly older people, had applied for permanent residence directly after the Brexit referendum. In 2017, more people were issued documents certifying permanent residence than ever before (168,913) and more than double number issued in the previous year (65,068).<sup>9</sup> It is not clear how many of these applicants intend to remain in the country beyond 30 June, and how many of them have subsequently submitted an application to the EUSS. Provision of this data, to help understand how many Londoners may falsely believe they have secured a right to remain through a permanent residence document, is critical to understanding and addressing the scale of the problem. It is also vital, regardless of whether this data can be provided, that a communications strategy specifically targets this group.

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<sup>7</sup> [Transcript of the London Assembly EU Exit Working Group – Appendix 5](#), 26 January 2021

<sup>8</sup> [EUSS Deadline and grace period](#), London.gov.uk

<sup>9</sup> [Statistical News Release: Immigration Statistics](#), Home Office, 22 February 2018

## Recommendations

4. The Working Group asks you to request that the Home Office investigates the number of people who applied for a permanent residence certificate, but have not subsequently applied to the EUSS, and consider what action might be taken to ensure they are fully aware of what the requirements are to remain in the UK post 30 June 2021.
5. The Working Group asks you to tailor part of your communication strategy to ensure that it specifically targets people who may have obtained permanent residence documentation and are not aware that they must still apply for EUSS.

## Understanding of pre-settled status

The Working Group was concerned to learn of potential issues surrounding a lack of understanding of pre-settled status amongst authorities and employers. For example, Professor O'Brien relayed to the Working Group a case where a local authority told someone they were no longer eligible for housing when they discovered the person had pre-settled status. The council believed that this meant that the person had no right of residency. Although this decision was later overturned with the help of Citizens Advice,<sup>10</sup> in order to avoid further incidents such as this it is important that there is a clear understanding by relevant bodies of the rights conferred by pre-settled status, so that no one is wrongly discriminated against. There should be communication with London businesses about the rights conferred by pre-settled status, particularly small and medium-sized enterprises who may have limited capacity to keep fully up-to-date with changing regulations. It should be made clear that someone with pre-settled status has the right to work in the UK.<sup>11</sup>

## Recommendation

6. The Working Group asks you to create a communications plan to ensure that local authorities, landlords and employers understand the rights conferred by pre-settled status.

I would be grateful to receive a response to our findings and recommendations by 5 March 2021. Please send your response by email to the Working Group's clerk Lauren Harvey ([Lauren.Harvey@london.gov.uk](mailto:Lauren.Harvey@london.gov.uk)).

Yours,



**Len Duvall OBE AM**  
**Chair of the EU Exit Working Group**

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<sup>10</sup> [Transcript of the London Assembly EU Exit Working Group – Appendix 5](#), 26 January 2021

<sup>11</sup> [Compare your rights: Settled and Pre-Settled Status](#), London.gov.uk