



Scotland and EU New Scots rights

Where are we and what Scotland can do about it

A short summary: Due to Brexit the Home Office has decreed that all EU citizens in the UK have to apply for Settled Status or will be deemed illegal residents by the end of the transition period.

Based on the figures published by the Home Office earlier this month [I calculated application rates thus far as follows](#): 66% for EU nationals in the UK overall, as compared to only 45% of New Scots having applied so far. It is worth noting that this percentage is likely to be even lower than my calculation as the Home Office has only today admitted the numbers on applications for SS include repeat applications (in the absence of an actual appeals process).

Despite the welcome ~ £5 per EU New Scot head spend on providing access to Settled Status information (as contrasted with ~ £3 pp by UKgov) the below-UK-average application rate from Scotland's New Scots is a clear indicator that the Scottish government's singular angle approach is not addressing severe issues pertaining to Settled Status - and potentially inadvertently exposing New Scots and their families to increased risk.

Given that the Home Office states that roughly [40% of SS applications have resulted in being awarded pre-SS instead](#) while there are no reliable numbers on either migration nor Settled Status actual figures and percentages are impossible to correctly estimate. However, the most pertinent issues and concerns in regard to Settled Status are the following:

- No physical token awarded to [pre-]SS holders
- Legally migrants will not be supplied with data the Home Office based their immigration decisions on
- [Settled Status app asks applicants to agree to HO using and sharing *ALL* data provided](#) with orgs/companies both inside and outside of the UK, without ever sharing further information with applicants about it. This includes biometric data.
- SS scheme will not ever be accessed by 100% of the UK's EU citizen population. HO has stated that those EU citizens caught without after end of deadline (31st Dec 2020 in case of No Deal, June 2021 in case of Deal) will be subject to Immigration control protocol, ie. freezing of bank accounts, sanctions of social welfare and other public services, detentions, deportations.

An independence referendum will now not come in time for EU New Scots. That leaves both the mitigation of the effects on Scotland as well as the search for new approaches in dealing with the enforced powerlessness in terms of immigration the only sensible, proactive approach for the Scottish government.

The imperative question is: *What CAN Scotland do?*

1. **Physical SS token / Scottish Residency Card?**

- aims to protect against discrimination
- Scheme should be voluntary and open to applications from ALL residents of Scotland

This should be pursued regardless of whether the HO/UKgov begin providing a token. Understanding demographics matters greatly - if Scotgov is also able to record if/when residents leave it [better understands causes and can develop strategies against](#).

Nothing stops Scotland from doing this, technically, neither in terms of implementation, nor checking status, nor security - even if the route to providing a physical token isn't in the form of a Scottish Resident card but some other mechanism such as an official letter, although I consider the best option to be a form of card which in the context of increasing digital democracy would also plug neatly into the preexisting Citizen Entitlement Card/Bus Pass, or Young Scots card arrangements.

The last feedback regarding this suggestion I had from Ben MacPherson is that after considering the concept he felt that "it's full of a mixture of serious risks" but hasn't since elaborated, which I take to mean there is political risk involved and will therefore not be looked into at all.

The UK Home Office has outsourced the checking of status to employers, landlords,

bank employees and anybody else doing business that might tangentially involve EU nationals. I cannot overstate what a huge loss of opportunity it would be for the Scottish government to [not even use the immigration powers freely provided to Lincolnshire County Council](#) or anyone living within it.

While the concept of an ID card continues to be an oddly controversial one in both UK and Scotland this is a very current and relevant topic, which the Scottish Government needs to begin to get to grips with, particularly with a view to Independence within the EU, where id cards are normal in most member states. In doing some research for this briefing I have come across the [Citizen Card](#), which apparently was introduced UK wide in 1999. Apparently one of the services that links into the Citizen Card is plugging into the [YOTI online ID system](#) - this service provider ought to be able to offer customised IT infrastructure to the Scottish government aiding and democratising access and so might be an area to be explored.



National ID card for the UK

Apply Online

 <p>Apply Online Anyone in the UK can make a Standard or Urgent online application for a CitizenCard.</p>	 <p>Yoti CitizenCard Our new digital ID solution: physical police-backed ID card + free digital ID. Best of both worlds.</p>	 <p>Requirements Learn who can act as a referee and support your application for an ID card in the UK.</p>
 <p>UK Identity Card From domestic flights to nights out - you can use CitizenCard to prove your identity.</p>	 <p>Police and SIA Supported by government agencies our cards are the best national proof of age and ID.</p>	 <p>Contact Get in touch if you have any queries. We are always happy to help!</p>

The @the3million supports this policy suggestion.

2. Workgroup: Protecting & furthering the rights of all of Scotland's residents

The Scottish government has proven exceptionally creative, resolute and bold in preventing Westminster policies coming into effect in Scotland in other non-devolved areas such as in the case of fracking or the bedroom tax. It is precisely this mindset that is needed to approach the issue of migration in and to Scotland.

It is high time to create a scotgov cross-party, multidisciplinary working group, tasked with consulting stakeholders, researching international approaches to such issues and finding means of implementing them by focussing on finding means and approaches to protecting ALL residents of Scotland, making use of Scots Law, anti-discrimination legislation, discussing the pragmatic and reasonable steps required to even think about deportation prevention, and so on. I appreciate there is a lot on scotgov's plate - but with half of Scotland's population growth on the EU citizen line we can simply not afford not being proactive in weighing options and finding solutions.

The @the3million also supports this policy suggestion.

3. Discrimination reporting mechanism / campaign

It is currently not known how many New Scots from both EU and non-EU countries have experienced (increased) discrimination in Scotland due to Brexit. Without a doubt a contributing factor to this is ongoing uncertainty and mis-/disinformation about citizen rights in the run-up to Brexit.

The last time I spoke to Ben MacPherson about implementing a discrimination reporting mechanism he seemed taken with the idea and mentioned that implementation of a reporting hotline could fairly easily slot into CAB's EU citizens advice hotline. I have not received further news on this since August but believe this is both an easy, effective as well as relatively cheap step.

This reporting mechanism should be open to accept reports of discrimination from residents of any nationality - with a follow-up strategy worked on by the major stakeholders, see 2.) and go hand in hand with a public campaign clearly stating discrimination laws, arrangements until Brexit and reporting mechanism. The hugely successful "Dear racists/homophobes/etc" campaign is a fantastic starting point to give the reporting mechanism some teeth and traction.

The @the3million also support this policy suggestion.

4. EU citizen emergency/legal fund

You will be aware of the horrendous reality already faced by many Scot/New Scot families. One of the most exemplifying cases of excruciating, unavoidable uncertainty is that of [Patricia and Frans Goossens](#), both of whom tirelessly and valiantly campaigned and lobbied by all means available to them until remaining in Scotland stopped being a secure, feasible option for their family in the face of Brexit.

Since the Scottish government and its representatives were apparently unable to do anything at all for this now essentially stateless couple without fixed home address (who will be moving to Ireland in November having had huge complications with receiving support and financial security in Belgium) it is imperative to learn the lessons offered by their current ordeal: It is simply unethical to make pro-migration rhetoric hay of media sunshine when the reality faced by New Scots and their families is so devastating, egregious and current.

What is required is financial investment into an emergency fund and support and advocacy in issues pertaining to these matters. EU citizens in Scotland have been told that these cases need to be fought on an individual basis come Brexit - are they going to have to do it without practical help from the Scottish government then, too?

5. Legal

For EU Citizens in the UK both Brexit and the Hostile Environment mean previously not encountered infractions of their personal rights, EU and Human Rights. As far as I can see the most notable issues relate to:

- **Right to family & marriage**
- **Right to the protection of personal data**
- **Right to not have previously held democratic rights removed (see Voting Rights)**

It has been suggested that UK policies representing the infraction of various parts of the EU Charter of Fundamental Rights would be best brought to discussion to the Standing Council by a Scottish MEP.

6. Voting Rights

Extend voting rights by passing them through Holyrood as soon as possible and make absolutely sure that in any applicable election there is a specific and inclusive campaign strategy for those now newly enfranchised as well as those who have fallen off the voters register due to reform in electoral law.

EU Citizens for an Independent Scotland has already made a start on this for Scotland by printing half a million flyers in both Polish and English last year and distributing them across Scotland's YES groups through the Big IndyKit. We are happy to assist with translations (any language) as well as design and strategy.



Further questions to be answered:

1. Will scotgov interfere with or block deportation orders? If scotgov is unable to commit to this via actual policy changes it is absolutely imperative that [statements such as Michael Russell's](#) will not be repeated in future as they would correctly interpreted as misleading and hugely damaging for those EU citizens who have bet their lives in Scotland on the trust the Scottish Government has sought to build since the Brexit referendum.



2. Can scotgov enshrine the rights of residents of Scotland into Scots Law, so that whether independent or not and under whichever party's government they are protected?
3. Legal efforts to win cases relating to immigration should be supported by scotgov, if not monetarily then with cooperation, support and network sharing. Identify flagship cases which can be brought to EU level.