



T: 0300 244 4000  
E: scottish.ministers@gov.scot

Chris Philp MP  
Parliamentary Under-Secretary of State  
Home Office  
2 Marsham Street  
LONDON  
SW1P 4DF

---

26<sup>th</sup> August 2020

Thank you for your letter of 5 August about asylum support cessations, advising of the resumption of the move on process on 11 August.

I understand that this resumption relates to people with positive asylum decisions only at this time and that the 11 August resumption date applied to England. I agree it is important that people with positive decisions are able to move on with their lives, so long as that can be done safely in line with public health guidance. The resumption of positive move on should also enable more people to move out of hotels into dispersed accommodation. However, it is important that the Home Office and Mears Group work closely with Glasgow City Council to ensure a smooth transition, with welfare benefits and support in place before people move. I would be grateful if you could, as a matter of urgency, provide the Leader of Glasgow Council and me with more detail, including a draft timetable, of your plans for the resumption of positive move on in Scotland.

Given that the Covid-19 pandemic is still ongoing, I am pleased that the resumption of move on is currently focusing only on people with positive asylum decisions, who have the right to access social housing. However, I would also like to know what plans are in place for the longer term support of people with negative asylum decisions. Plans must be in place to keep people safe during this pandemic, and they must also be enabled to consider their options and not end up homeless and destitute.

When we spoke at the end of June, you advised that you would reconsider the provision of financial support for people in hotel accommodation. As you know, I believe that provision of some financial support is vital to people's wellbeing and ensuring they have some agency and choice in their lives and an ability to get things they need, not only what is decided they should have. I note that, in its recent report, the Home Affairs Committee also made similar Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

points and urged the reinstatement of financial support. I would be grateful to hear the outcome of your consideration in this respect as soon as possible.

I understand that, due to shortfalls in availability of dispersed accommodation properties, it may be some time before everyone currently in hotels in Glasgow is able to move into dispersed accommodation. I am aware that in May Mears undertook a survey of people accommodated in hotels to gather feedback about the arrangements, including food provision. I believe it would be useful if this exercise was repeated with those remaining in hotels to ensure that arrangements meet their needs, particularly following the tragic incident on 26 June.

As I noted in previous correspondence, while I recognise that hotels can enable people to be accommodated during the pandemic, they are not a long term solution for asylum accommodation and are not acceptable as general practice in Glasgow. I therefore expect the Home Office to continue to monitor the availability of accommodation in the community in Glasgow and not to restart asylum routing, so that people can move out of hotels as soon as possible, and reliance on this type of accommodation can end. I would be grateful for a timetable for the vacation of all such hotel accommodation in Glasgow.

The Home Affairs Committee's recent report into Home Office preparedness for Covid-19 made recommendations on a number of issues that I have raised with you in correspondence and in calls, including the transfer of people to hotels, food provision, digital access and financial support. I would urge you to act on the Committee's recommendations, which reflect the concerns of many organisations working with people seeking asylum, as well as the Scottish Government.

I note that the Committee asked the Home Office to set out the findings and lessons learned from its own investigation of moves to hotel accommodation in its response to the Committee. While I look forward to seeing the outcome of this investigation as soon as possible, given the significant public concern in Glasgow, I believe that an independent public inquiry into the operation of the asylum support system is needed to understand all the issues that led to the incident on 26 June. I urge you to ensure that this is established without delay.

Given the seriousness of these issues, and the recent tragic death of Mercy Baguma in Glasgow, I would be grateful for your urgent response. My office will be in touch to establish a date to discuss the issues I have continually raised, and I urge you to set a date for a Four Nations meeting, at which all the administrations can discuss the current UK asylum process and policies.



**Aileen Campbell**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)





T: 0300 244 4000  
E: scottish.ministers@gov.scot

Rt Hon Caroline Nokes MP  
Minister for State for Immigration  
Home Office  
2 Marsham Street  
3<sup>rd</sup> Floor Peel Building  
London  
SW1P 4DF

cc Joan McAlpine MSP

15 November 2018

*Dear Caroline,*

[Redacted]

I greatly value all those who have the ambition and potential to make a valuable contribution to healthcare in Scotland, by joining our dedicated NHS workforce.

[Redacted]

It is of particular concern to me when I hear that young people, who entered this country legally as children, who have spent their formative years here, and who have the potential to make a valuable contribution to our society, are being served with removal notices. Notices which threaten to separate them from their friends, their communities, and their future careers.

[Redacted]

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See  
[www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



[Redacted]

I understand that the case is currently under reconsideration. I would be grateful if, as part of this process, you will take into account the individual circumstances of the family and I would welcome information on your conclusions.

**Ben Macpherson**  
**Minister for Europe, Migration and International Development**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See  
[www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)





T: 0300 244 4000  
E: scottish.ministers@gov.scot

Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
Home Office  
2 Marsham Street  
3<sup>rd</sup> Floor Peel Building  
London  
SW1P 4DF

— 29 November 2018

*Dear Caroline,*

Thank you for taking the time to meet with me on 26 November. I hope you found our meeting productive - as did I - and I am pleased that we share a mutual commitment to ongoing quarterly engagement.

I hope that we agree that it is vitally important for the whole of the UK that EU citizens feel settled and secure, in order that they can continue to make a strong contribution to our nation.

As such, I am becoming increasingly concerned at the impact of the UK Government's intention to impose a fee for EU citizens applying for settled status. I know that we have discussed this previously but I am now seeing increasing concern, and indeed opposition to the fee, from individuals, representative organisations and employers. EU citizens are playing a crucial role in many of our key economic sectors, in small, medium and large businesses, and across the public sector. Employers are understandably concerned about the risk of losing valued individuals and the consequent risk to delivery. I understand that some employers are looking to meet the fee to try to retain key staff but clearly this is an additional cost to those organisations.

The overwhelming view of those I have spoken to is that a fee should not be imposed and that it is deeply unfair to propose that EU citizens be charged to protect rights to which they are currently entitled.

The imposition of a fee is making EU citizens in the UK feel unwelcome. I know that the UK Government has said that this is not your intention. I am therefore writing to strongly urge you to urgently reconsider this damaging policy and to honour the Prime Minister's message to EU citizens that they are welcome in the UK and that their contributions are valued.

As you know, the Scottish Government and many employers across the UK have committed to doing whatever they can to help mitigate the hardship the scheme will create, should a fee be applied. However, the process for employers (including the Scottish Government) for paying settled status fees on behalf of their employees is complicated by the fact that this payment would incur a tax liability.

In order to streamline the process for all parties involved, reduce costs and reduce bureaucracy, my colleague Derek Mackay MSP, Cabinet Secretary for Finance, Economy and Fair Work, wrote to the Chancellor to ask that the settled status fee (should one be applied) be rendered tax exempt. I was pleased that you agreed to look at this when we met and I now ask you to back our call and make a similar representation to the Treasury.

As I also raised in our meeting, the process could be further simplified if employers were able to make a bulk payment of the fee on behalf of their staff. This would be beneficial to employers and would reduce the administrative burden on the Home Office. Despite the fact that my officials have raised this repeatedly with the Home Office, I am dismayed that we have as yet received no indication that there are plans to allow third party payments. I understand that other organisations have also raised this with the Home Office and I would appreciate if thought could be given to this possibility.

I am sure you will agree that the issues I have raised above are now extremely urgent. I would therefore appreciate a swift written response to the matters I have raised and would very much welcome further engagement on these at your earliest convenience.



**Ben Macpherson**

**Minister for Europe, Migration and International Development**

Minister for Europe, Migration and  
International Development  
Ben Macpherson MSP

T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)



Scottish Government  
Riaghaltas na h-Alba  
[gov.scot](http://gov.scot)

Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
Home Office  
2 Marsham Street  
3<sup>rd</sup> Floor Peel Building  
London  
SW1P 4DF

— 22 January 2019

*Dear Caroline,*

[Redacted]

In your role as Minister, the Home Office has been at the forefront of the UK's response to the refugee crisis, providing support to those fleeing conflict and persecution.

The situation has changed, however, as the UK's borders have closed and the Home Office has focused its efforts on the UK's border control and immigration system. This has led to a significant increase in the number of people being held in indefinite detention, many of whom are refugees or asylum seekers. The Home Office has also introduced new policies, such as the 'hostile environment', which make it difficult for refugees and asylum seekers to access basic services like healthcare and education. These changes have had a profound impact on the lives of refugees and asylum seekers, particularly those who are vulnerable or have disabilities.

The Home Office has also been instrumental in developing a range of policies to support refugees and asylum seekers, including the 'Refugee Resettlement Scheme' and the 'Family Reunification Scheme'. These schemes have helped to reunite families and provide a safe haven for refugees and asylum seekers. However, there are concerns about the implementation of these policies, particularly regarding the treatment of refugees and asylum seekers in the UK.

The Home Office has also been involved in the development of the 'Nationality and Borders Bill', which aims to strengthen the UK's border control and immigration system. The bill has faced criticism from human rights groups, who argue that it will lead to a further deterioration in the treatment of refugees and asylum seekers in the UK.

[Redacted]

I am deeply concerned that the restrictions on family migration are having a damaging impact on families [Redacted] once again highlights a failure to take into account the individual and compassionate circumstances of real people. [Redacted]

[Redacted] I also urge you to look into this case as a matter of urgency.

Thanks and regards,  
Ben

**Ben Macpherson**  
**Minister for Europe, Migration and International Development**



Home Office

Rt Hon Caroline Nokes MP  
Minister of State for Immigration

Ben Macpherson MSP  
34 Constitution Street  
Edinburgh  
EH6 6RS

2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

11 MAR 2019

*Dear Ben*

I am writing in response to your letter of 22 January [Redacted]

I have reviewed this case. [Redacted]

*Yours ever  
Caroline*

Rt Hon Caroline Nokes MP  
Minister of State for Immigration

Minister for Europe, Migration and  
International Development  
Ben Macpherson MSP



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

Minister for Further Education, Higher  
Education and Science  
Richard Lochhead MSP

T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
Home Office  
2 Marsham Street  
3<sup>rd</sup> Floor Peel Building  
London  
SW1P 4DF

---

1 February 2019

We are writing regarding the UK Government's policy paper on the position of EU citizens who arrive after 30 March 2019 and before the implementation of the new UK immigration system, in the event of a no-deal.

Of particular concern is the effect the proposed three year European Temporary Leave to Remain will have on the higher education sector in Scotland. In developing this policy, the UK Government has ignored the fact that the majority of undergraduate courses in Scotland are four years in length. The three-year non-extendable time limit will have serious consequences for Scottish institutions, putting them at a competitive disadvantage with regards to undergraduate recruitment. Due to the fact that the criteria for extension are yet to be published and the possibility of extension being refused, this policy, and the uncertainty it creates, is likely to discourage EU citizens applying to Scottish universities as there is no guarantee they will be able to complete courses.

However, the negative effects of this policy go much wider than Scotland. All EU students undertaking non-standard length courses will be seriously disadvantaged. This will include PhD and medical students, those studying part-time, female students who may have to go on maternity leave and many others who do not fit neatly into a three-year undergraduate degree model. The view of the Scottish Government is that this is likely to be discriminatory against particular groups and we would be grateful if you could provide information on the measures the Home Office intends to take to address these issues and any equality impact assessment which was undertaken when developing this policy.

In order to plan effectively for a no-deal situation, the higher education sector in Scotland urgently needs further details on the practical implementation of this policy. I would be grateful if you could provide details on the full eligibility criteria and application process for European Temporary Leave to Remain and information on any fee that will be imposed.

We would also like to stress that this situation is wholly unnecessary. This policy only serves to increase the confusion, anxiety and insecurity many EU nationals currently feel. It is entirely within the gift of the UK Government to take a clear policy position that the rights of EU citizens will remain the same regardless of the outcome of negotiations by honouring the Settlement Scheme as set out in June 2018 which would send a clear message to EU citizens that they remain welcome in the UK and would provide some much-needed certainty for the higher education sector. This is more important than ever given the current impasse in Westminster.

It is also deeply disappointing that the views of the Scottish Government were not sought in the development of this policy in spite of the commitment to meaningful engagement received when you met with the Minister for Migration, Europe and International Development. The Scottish Government reiterates its commitment to working with the Home Office in an open and constructive manner and this situation could have been avoided if the Home Office had taken into account Scotland's unique situation at an early stage. It is also regrettable that, once again we were given minimal notice of the impending publication of this policy which, I'm sure you will agree, does not fulfil the UK Government's public commitment to genuinely involve the devolved administrations in the Brexit process.

We are sure you will agree that EU citizens contribute a huge amount to our economy, society and culture and are a vital component of the higher education sector in Scotland. We urge the UK Government to reconsider this policy and provide certainty by guaranteeing the provisions for EU citizens set out in the Withdrawal Agreement even in the event of a no-deal.

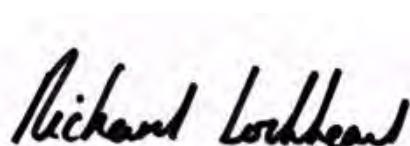
The Scottish Government maintains that the UK Government should immediately rule out no-deal and seek an extension to the Article 50 process.

We would be grateful if you could consider these issues as a matter of urgency and look forward to your prompt response.

I am copying this letter to the Minister of State for Universities, Science, Research and Innovation, Chris Skidmore, the Brexit Minister for Wales, Jeremy Miles, and the Secretary of State for Scotland.



**Ben Macpherson MSP**  
**Minister for Europe, Migration  
and International Development**



**Richard Lochhead MSP**  
**Minister for Further Education,  
Higher Education and Science**



Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
House of Commons  
London  
SW1A 0AA

By email

27 March 2019

Dear Caroline,

We look forward to meeting with you in a devolved administration roundtable forum to begin Ministerial engagement on the UK immigration white paper published in December 2018. Ahead of that meeting, we wanted to set out for you the shared priorities of both the Scottish Government and the Welsh Government.

These are strategic issues and some serious concerns which we expect will feature in the initial roundtable discussion; no doubt many further points of detail will be addressed in future Ministerial, official and public engagement events your department will have planned. There will also be particular points of interest and concern of especial relevance for either Scotland or Wales that we will want to pursue with you individually.

Ending free movement and managing all migration from the EEA through the framework described in the white paper would be extremely damaging for the interests of the UK as a whole, but especially so for Scotland and Wales. Both our governments believe that for strong practical, economic and cultural reasons, there should be continued preferential access to the UK labour market for EU citizens if and when the UK leaves the EU. The Welsh Government set out in *Brexit and Fair Movement of People* why a preferential immigration route for EU citizens would benefit the Welsh economy. The Scottish Government has argued for continued free movement of people within the European Single Market, and for a regional element within the UK immigration system allowing for additional routes encouraging long-term settlement in Scotland.

You will be aware both our governments have recently published assessments of the impact in our nations of the proposed UK policy approach. The Welsh Government commissioned the Wales Centre for Public Policy to prepare a report examining how plans, as set out in the white paper, will affect Wales. The report found that there would

be an estimated drop of 1%-1.5% to GDP in Wales over 10 years, and that Wales will be affected more than the UK as a whole by the cut in numbers migrating for work. The Scottish Government established an independent expert advisory group on migration and population, and commissioned them to examine how proposed changes are likely to affect migration to Scotland and how changes in immigration may in turn affect areas of devolved responsibility in Scotland. They found that the white paper measures would reduce net migration to Scotland by between 30% and 50%, which would lead to decline of the working age population in Scotland of up to 5%. These scenarios, brought about by the UK Government's proposals, would be unacceptable consequences for Wales and Scotland to bear. We would be interested to hear your assessment of this evidence.

With these points in mind, we are able to welcome some of the measures in the white paper. You have said that although the UK proposes a single immigration system after leaving the EU, not all nationalities will be treated the same, and that different approaches may be appropriate dependent on risk, or on the nature of future trade agreements. We would therefore be keen to understand from you how far the UK Government is willing, or expects, to shift from the position described in the white paper in the process of negotiations on the future economic partnership with the EU.

We also welcome the commitment to review the complexity and cost of the current UK points-based system, and would be pleased to hear from you on the parameters of this review and what you have heard from employers to date. Removing burdens such as the ineffective resident labour market test and abolishing the monthly and annual quotas on visas for skilled workers is welcome. The UK Government should go further and formally abandon the net migration target, and end the distorting effect it has on immigration policy.

The continued commitment to an additional Shortage Occupation List for Scotland, and the introduction of further additional lists for Northern Ireland and Wales, is welcome. However the Scottish Government is clear that for the existing Scottish only Shortage Occupation List to be effective (and any future Welsh equivalent), a formal role for devolved administrations in the commissioning and decision making around the lists' contents is required. We would want to work closely with the Home Office, and the Migration Advisory Committee, to ensure that the design and operation of these shortage lists is effective and responsive to local need. We would also welcome discussion with you on whether this is the best mechanism to ensure that the UK immigration system delivers for all parts of the UK.

However, in and of themselves, separate Shortage Occupation Lists will have little benefit given the proposed abolition of quantitative limits on Tier 2 visas. If, as at present, they still operate within the salary and qualification thresholds we want to ensure that they are not used to excuse the damaging proposal to set a salary threshold at £30,000 for skilled workers in future. This figure is above median wages in almost all parts of the UK, including Scotland and Wales, and is significantly above the level at which the vast majority of migrants make a net fiscal contribution in the UK. You have committed to listen to views from employers on the level of any threshold, and we would again welcome detail from you on how you will manage that consultation process, and what you have heard so far. The independent analysis we mention showed that even a £25,000 threshold would exclude 53% of roles in Scotland; and that a threshold of around £20,000 would be more appropriate for the economy of Wales. It is welcome that current shortage roles, such as nurses, have

reduced salary thresholds - but there must be a sustainable position on this for the whole economy, rather than relying on bespoke solutions for specific roles or sectors to mitigate the harm.

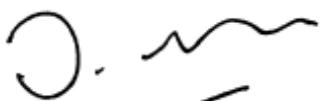
The reduction in the skills requirement from graduate-level (RQF 6+) to the equivalent of A-levels or Highers (RQF 3+) is a positive step, although maintaining a £30,000 salary threshold would eliminate most of the benefit. We have strong concerns about the design and policy intent of routes available for roles below that skill level. The transitional temporary worker scheme is ethically questionable and falls far short of what business requires: for example, it would be wholly inappropriate to fill gaps in the care sector by admitting a constantly rotating cohort of workers. The weight of restrictions on the scheme means it is unlikely to attract needed workers in the first instance and will discourage employers from investing in training and development. We would welcome discussion with you on additional options to ensure continued supply of labour for all sectors reliant on roles below the level of the skilled worker route, but reiterate our view that the existing classifications of skill level fail to recognise or appreciate the significant contributions made by those that may be defined as 'low skilled' or 'unskilled'. Salary level is not an appropriate measure of value to society.

Finally, the continued commitment to no cap on international student numbers is appropriate. The UK Government should also review costs and burdens on universities and students, especially if future EEA students are to fall within Tier 4. In order to maintain international competitiveness in what is one of the UK's most important export industries, the right to live and work after completing studies should be extended further for all international students - up to two years, in line with the previous post-study work visa and the Fresh Talent: Working in Scotland Scheme.

It is clear the UK Government's one-size-fits all approach to immigration has not served the individual needs of devolved nations, and so we welcome the white paper as an opportunity to redesign the system to ensure it is appropriate for our specific circumstances.

Whilst it was extremely disappointing to not have been meaningfully involved in the development of the proposals in the white paper, we see this roundtable discussion as a welcome development. It would therefore also be appropriate to discuss and agree an outline of future Ministerial roundtables and bilaterals over the next 12 months to ensure the needs of Scotland and Wales are properly reflected as you engage on the white paper and introduce secondary legislation effecting changes to the Immigration Rules.

We have copied this letter to David Sterling, head of the Northern Ireland Civil Service.



**Jeremy Miles AM**  
Y Cwrsler Cyffredinol a Gweinidog  
Brexit  
Counsel General and Brexit Minister



**Ben Macpherson MSP**  
Minister for Europe, Migration and  
International Development



2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Ben Macpherson  
Scottish Government  
Minister for Europe, Migration and  
International Development

29<sup>th</sup> March 2019

Dear Ben,

## **EU SETTLEMENT SCHEME**

On 30 March, the UK Government is launching the EU Settlement Scheme. Throughout establishing the Scheme, we have always been clear that we want EU citizens and their families who have made the UK their home to stay. EU citizens make a huge contribution to our economy and society; they are integral to our national culture and life. The full opening of the Scheme shows clearly our commitment to enable them to continue living and working here just as they do now after the UK leaves the EU.

The EU Settlement Scheme provides a simple and straightforward process for EEA and Swiss citizens and their family members who want to stay in the UK to get the UK immigration status they need. They will only need to complete three key steps – prove their identity, show that they live in the UK, and declare any criminal convictions. Applications to the Scheme are free and are made via a short online application process.

Now that the Scheme is fully open, there are different routes available for applicants to have their identity documents checked as part of their application. These include scanning identity documents using an Android phone, sending documents by post, or visiting one of our many ID document scanner locations across the country.

### **Private and public test phases**

Since August last year, the Home Office has been running a series of private and public test phases to ensure that we fully test the various elements of the system, including the app which checks identity, before the full launch of the Scheme.

I am pleased with the progress we have made in getting the Scheme ready, and with the applicant feedback we have received during the test phases, which has enabled us to make improvements along the way. Already over 200,000 people have been granted status under the Scheme.

## **Support, engagement and communications**

The Home Office has invested heavily in the Scheme, developing a new case working system, as well as putting in place a range of user-friendly guidance and support services, including a customer contact centre, to help EU citizens through the process.

This week, a UK-wide marketing campaign was launched to increase awareness of and encourage EU citizens to apply to the EU Settlement Scheme. Outdoor advertising can be seen at around 6,000 sites across the UK including in every major city. There is also digital advertising on catch-up TV, radio, social media and online, running from Saturday, 30 March.

The marketing campaign will direct EU citizens to guidance on [GOV.UK](#), which is available in all 25 official EU languages and Welsh from 30 March. We will be producing further translated communications materials, including videos and animations, to ensure that guidance around the EU Settlement Scheme is accessible to all.

We are taking particular care that adequate support is in place for more vulnerable and at-risk citizens. The Home Office grant funding scheme will help voluntary and community organisations provide application support for the most vulnerable. We will announce which organisations have received funding in April.

Public information and communications will continue throughout the lifetime of the Scheme, alongside continued work and engagement with employers, local authorities and voluntary and community organisations to ensure no-one is left behind.

## **Scottish engagement**

We have been working with the Confederation of Scottish Local Authorities to ensure we understand local needs. This has led to a range of local engagement with EU citizens, as well as with community groups, voluntary sector bodies and businesses that have strong local links with EU citizens and their communities.

We will be enhancing our engagement and are planning significant local outreach in Scotland to ensure that we reach all parts of the country and speak to harder to reach communities. We are already speaking to officials from your Government regarding local needs and future outreach, and we will continue to work directly with local authorities to ensure that all EU citizens are aware of the need to apply.

## **No deal arrangements**

While the Government remains committed to leaving the EU with a negotiated deal, in the event of the UK leaving the EU without a deal, I want to reassure you that the EU Settlement Scheme will continue. EU citizens who are resident in the UK before the UK leaves the EU will continue to be eligible to apply to the EU Settlement Scheme, until at least 31 December 2020.

For EU citizens arriving after the UK's exit from the EU, transitional immigration arrangements will be put in place.

EU citizens wishing to stay in the UK for up to three months will be able to continue to come to the UK to visit, work and study by using a passport or national identity card as now. They will not need to apply for any immigration status. EU citizens arriving in the UK after the UK leaves the EU who wish to stay in the UK for more than three months will need to apply for European Temporary Leave to Remain. Further guidance is available on GOV.UK, and we will continue to update you with more information.

## Further information

We want to ensure that every EU citizen has the information and support they need to apply to the Scheme. You can access direct information via these quick links below:

- [EU Settlement Scheme guidance](#)
- [Access assisted digital support](#)
- [ID document scanner locations](#)
- [Sign up to receive EU Citizen Email Alerts from the Home Office](#)
- [Sign up to receive the Community Bulletin](#)
- [European Temporary Leave to Remain Guidance](#)

We greatly appreciate your continued support in promoting the EU Settlement Scheme and providing reassurance to EU citizens.

A handwritten signature in blue ink that reads "Yours ever" on the first line and "Caroline" on the second line.

**Rt Hon Caroline Nokes MP  
Minister of State for Immigration**

T: 0300 244 4000  
E: scottish.ministers@gov.scot

Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
Home Office  
2 Marsham Street  
3<sup>rd</sup> Floor Peel Building  
London  
SW1P 4DF

---

1 April 2019

Dear

**[Redacted]**

I trust that you will ensure **[Redacted]** concerns are acknowledged and given an appropriate response, and I would appreciate any further information you can offer me.

**[Redacted]** The cost and complexity of the current immigration system is a significant concern, and it is something I hope the current reforms the UK Government is engaging on will address. I am sure we will return to this point in future discussions on the new immigration system.

**Ben Macpherson**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See  
[www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



Home Office

Rt Hon Caroline Nokes MP  
Minister of State for Immigration

2 Marsham Street,  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Ben Macpherson MSP  
Minister for Europe, Migration and International Development  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

CTS Reference: M1629/19  
HO Reference: S1774077

09 APR 2019

Thank you for your letter of 1 April [Redacted]

The Home Office sets visa, immigration and citizenship fees at a level that helps provide the resources necessary to operate the Border, Immigration and Citizenship (BIC) system. The fee-setting criteria are set out in Section 68(9) of the Immigration Act 2014, which can be found on the website at: [www.legislation.gov.uk/ukpga/2014/22/section/68](http://www.legislation.gov.uk/ukpga/2014/22/section/68).

Application fees are set within the parameters agreed with Her Majesty's Treasury and Parliament, balancing a number of factors, including the administrative cost of processing an application, the wider costs of the immigration system and the benefits likely to accrue to a successful applicant.

The Home Office believes it is right that a greater share of the cost of operating the system is borne by those applicants who directly use it. As a consequence, application fees have increased in recent years as the Home Office aims to reduce the overall level of funding that comes from general taxation by reducing costs and increasing the proportion which is funded by income generated from fees.

[Redacted]

The onus always lies with the applicant to ensure that they are eligible for any application they choose to make, and they provide all the relevant evidence to support their application. Further information on how an applicant can be eligible for a fee waiver can be found on the gov.uk website at: [www.gov.uk/government/publications/applications-for-a-fee-waiver-and-refunds](http://www.gov.uk/government/publications/applications-for-a-fee-waiver-and-refunds).

Yours ever  
Caroline

**Rt Hon Caroline Nokes MP**  
**Minister of State for Immigration**



T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
Home Office  
2 Marsham Street  
3<sup>rd</sup> Floor Peel Building  
London  
SW1P 4DF

17 April 2019

Dear Caroline,

I am writing regarding a number of issues that have come to my attention around arrangements for EU citizens who work in Scotland but who may be resident in another EU member state.

While we know that Frontier Workers are provided for in the Withdrawal Agreement as drafted, there is little information about the process through which they will need to apply for a document certifying their rights. There is also scant detail about how Frontier Workers will be protected in the published policy paper on the rights of EU citizens residing in the UK before EU Exit in a no deal scenario, and no clarity about arrangements for Frontier Workers who come to work in the UK after EU Exit in a no deal scenario, but before the new immigration system is put in place in 2021.

My immediate and grave concern is around arrangements for a number of Scottish Government (Marine Scotland) EU national staff who are currently working on compliance and research vessels many of whom are delivering critical roles. These staff members urgently need clarity on whether they would be considered to be Frontier Workers, and if so, what the arrangements will be for such workers to apply for a document certifying their rights after the UK leaves the EU, including in a no deal scenario.

We have previously provided full details of this cohort of Marine Scotland staff to Home Office officials including around working patterns and tax codes as well as vessel routes and time in port, but I remain concerned about the lack of a meaningful response from your Department to clarify the status of these essential staff.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [WWW.lobbying.scot](http://WWW.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



We are also aware of two Northern Isles freight ships, providing vital services for the island communities that they serve, which are wholly crewed by EU nationals working on a six week on, six week off basis. We understand that during the six weeks that the crews are working, they reside on the vessels themselves, and do not have any accommodation on the mainland. During the six weeks that they are not working to the vessels they return to their respective EU Member States. These freighters operate daily between Scottish ports on Aberdeen / Kirkwall / Lerwick and Stromness / Scabster routes, and therefore within UK territorial sea limits and UK Offshore Marine Area.

The operators are concerned about the potential impact of Brexit on their workforce and their ability to retain these EU workers. I understand that Home Office officials have confirmed that they intend to allow these EU crews to count their time aboard the ships as proof of residence in the UK for the purposes of the EU Settlement Scheme, but they have not provided any details about how this will work in practice. Our concern remains that the crews may be unable to produce adequate evidence to demonstrate UK residence, and it is vital that clear guidance is made available for these individuals, and indeed for other EU citizens who may be in similar circumstances. These EU crew members need clarity so that they can apply for settled status and put an end to this uncertainty.

I appreciate that these are specific cases. However, they are specific cases of importance to Scotland that both highlight the complexity of the current proposals and the need for flexibility. I'm sure you will agree that it is vitally important that EU citizens feel settled and secure in order that they can continue to make a strong contribution to our nation and I would appreciate your swift response on these issues.

I am copying this letter to the Secretary of State for Scotland.

Kind regards,



**Ben Macpherson MSP**  
**Minister for Europe, Migration and International Development**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [WWW.lobbying.scot](http://WWW.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://WWW.gov.scot)





Home Office

Rt Hon Caroline Nokes MP  
Minister of State for Immigration

2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Jeremy Miles AM  
Welsh Government  
Brexit Counsel General and Brexit Minister  
Cathays Park  
Cardiff  
Wales  
CF10 3NQ

Ben Macpherson MSP  
Scottish Government  
Minister for Europe, Migration and International Development  
St Andrew's House  
Calton Hill  
Edinburgh  
Scotland  
EH1 3DG

8 MAY 2019

*Dear Jeremy and Ben*

Thank you for your letter sharing your Government's prioritise in relation to the UK's Future Skilled Based Immigration System White Paper proposals. I was pleased to discuss these with you at the Devolved Administrations roundtable on 27 March 2019. I hope you will agree it was a constructive meeting and, as I said when we met, I would like this valuable conversation to continue over 2019 so we can ensure the future immigration system truly works for all parts of the UK.

At our first meeting, and indeed in this letter, you have raised some important factors that I wish for us to explore in further detail during our future engagement. I would like to reiterate in this letter, however, that in the referendum the British people voted for control on the number of people who come here from the EU. Leaving the EU now offers us the opportunity to deliver that. The Government has been clear that Free Movement under EU law will end after the UK leaves the EU, and the migration of EU nationals will be subject to UK law.

I am particularly mindful of ensuring we deliver this in a way which benefits every nation and supports our move towards a higher-productivity, higher-skill and higher-wage economy. This is the Government accepted the MAC's recommendation that we prioritise higher-skilled migrants. Migration is a key element of the picture, alongside the availability of jobs, infrastructure and local amenities. I'm mindful these are areas the Welsh and Scottish Government have some competence to drive real change.

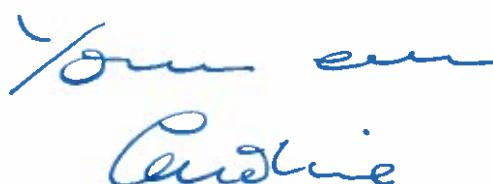
I am glad you welcome the Government's approach to introducing a system with the flexibility to provide for different treatment of certain migrants. This will be reflected in international or bilateral agreements and based on objective grounds such as skill and security risk. The Future Framework declaration agreed between the UK and the EU envisages reciprocal provisions on visa-free travel for EU visitors, expansion of our current range of "GATS Mode 4" commitments (taken as part of EU trade deals) and conditions for entry and stay for research, study, training and youth exchange. Any agreement we reach with the EU will be fully incorporated and compatible with the future immigration system, and we will seek to secure similar agreements with other low-risk nations, and close partners, as part of future trade agreements.

We discussed the Shortage Occupation List (SOL) when we met. As you know, the Migration Advisory Committee (MAC) is an independent, non-statutory, non-time limited, non-departmental public body that advises the government on migration issues. It is responsible for providing transparent, independent and evidence-based advice to the government on migration issues. I'm pleased both of your Governments have engaged with the MAC and submitted evidence in response to their latest commission. The MAC are due to report back on the composition of the SOL in spring this year and I look forward to discussing their findings with you at a future roundtable.

I am aware both of your Governments have published assessments of this Government's White Paper. As you will have noted from the Annex accompanying the White Paper, my officials have been considering the impact of the proposals through accessing many of the data sources your reports use. They are continuing to develop their analysis and will review any pertinent further sources. It is also important that we consider the impact of migration on the labour market in the context of the labour market as a whole. While EU net migration to the UK is slowing, it is still positive and furthermore overall total employment levels continue to increase across the UK.

I know you are aware the Government is engaging extensively on aspects of our proposals in the White Paper. Our conversations at ministerial level form an important part of that, so I would like to propose that we meet once every quarter over 2019. We can use this opportunity to reflect and build on the points our officials are discussing during their monthly working group. This working group is following a structured programme and I recommend our conversations follow a similar path to ensure we have sufficient opportunity to explore the proposals in detail. I would be happy to hear your thoughts on this suggestion.

Thank you again for your letter and I look forward to engaging further. My office will liaise with your offices to arrange our next roundtable.

A handwritten signature in blue ink, appearing to read "Yours ever" followed by "Caroline".

Rt Hon Caroline Nokes MP  
Minister of State for Immigration



2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Ben Macpherson  
Scottish Government  
Minister for Europe, Migration and  
International Development

16 MAY 2019

*Dear Ben*

Now that the EU Settlement Scheme is fully live, I am pleased to report that over 600,000 applications have now been made (including applications received during the test phases). Please be assured that we are continuing to work hard to make sure that all EEA and Swiss citizens and their family members living in the UK are aware of the Scheme, what it is, why it is in place, and how they can apply.

#### **Grant funded organisations**

Ensuring that vulnerable or at-risk EEA and Swiss citizens and their families are supported to obtain a status is a critical objective of the Scheme. That is why have made £9million available for community-based organisations to reach and support individuals who require that extra support to apply.

The Home Office promised to share the details of the organisations that were successful in their bids for Home Office grant funding with you as soon as possible, and once all commercial and legal obligations had been fulfilled.

I am pleased to inform you that the names of all 57 grant funded organisations are detailed in Annex A. We are delighted to be working in partnership with them.

Each organisation has passed a rigorous moderation and evaluation process. I am confident that through harnessing their expertise and strong local links, we will reach the most vulnerable and at-risk EEA and Swiss citizens, and their family members, in our communities.

This list is now available on [GOV.UK](https://GOV.UK). We will be making further public announcements following the elections for the European Parliament on 23 May, once the current pre-election restrictions on Government activity have lifted.

We are acutely aware of the operational importance of this announcement in relation to an organisation's ability to fully mobilise and engage groups and operational partners to deliver on the funding.

Therefore, the 57 successful organisations will be permitted to make their own respective announcements during this pre-election period to highlight the services they will be undertaking to support more vulnerable groups.

### Nationwide support

Collectively, our grant funded organisations will provide EU Settlement Scheme services across the four home nations and we expect them to support an estimated 200,000 vulnerable EEA and Swiss citizens. You will notice that the 57 successful organisations will be offering support to a diverse range of hard-to-reach or at-risk citizens such as; victims of human trafficking or domestic abuse, those with severe mental health conditions, those without a permanent address, and those who are elderly and isolated.

The grant fund was carefully designed to ensure support would reach EEA and Swiss citizens with vulnerability needs across the UK. Much of this support can be provided in-person, though some organisations will also offer mobile and/or remote support to extend their reach.

### Grant funded organisations: next steps

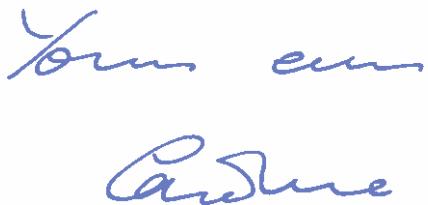
The grant funded organisations have made a commitment to undertake extensive targeted outreach work to identify vulnerable EEA and Swiss citizens, promote the Scheme and encourage and enable applications to be made.

All organisations not already accredited by the Office of the Immigration Services Commissioner (OISC) will undergo training to gain level 1 OISC accreditation, equipping them with appropriate knowledge to provide one-to-one immigration support as required. Furthermore, the organisations will provide wide-ranging services including access to technology and language support, assisting individuals in gathering relevant documents and more, depending on the individual's circumstances. In any situation where an individual organisation cannot support a vulnerable applicant, they will have clear guidance as to how to make a referral back to the Home Office or to another specialist organisation within the network, so that no-one is left unsupported.

Organisations have now started to mobilise their services. Some may require a little time to fully mobilise so we would appreciate your patience in these early stages. All applicants have until at least 31 December 2020 to make an application.

These organisations will be an excellent resource in offering assistance and support to vulnerable EU citizens in relation to the EU Settlement Scheme.

May I take this opportunity to thank you for your continued support with the EU Settlement Scheme.

A handwritten signature in blue ink, appearing to read "Yours ever" above "Caroline".

Rt Hon Caroline Nokes MP  
Minister of State for Immigration

## **Annex A**

### **Community Grant Funded Organisations May 2019**

<b>Organisation Name</b>
Advice NI
Advice on Individual Rights in Europe (The AIRE Centre)
Arachne Greek Cypriot Women's Group
Asylum Welcome
Barnet Citizens Advice Bureau
Church of England Children's Society
Citizens Advice Bolton
Citizens Advice Bournemouth, Christchurch & Poole
Citizens Advice Liverpool
Clifton Learning Partnership
Community Renewal Trust
Coram
Crisis UK
CVS Cheshire East
Diversity Voice
Ealing Community and Voluntary Service
East End Citizens Advice Bureaux
East European Resource Centre
Enfield Citizens Advice Bureau
Father Hudson's Society
FENIKS: Counselling, Personal Development and Support Services Ltd.
Fife Migrants Forum
Girlington Advice Centre
Gladstone District Community Association (GLADCA)
Guy's and St Thomas' NHS Foundation Trust
Indoamerican Refugee Migrant Organisation
International Organization for Migration (IOM)
Latin American Disabled People's Project
Latin American House
Latin American Women's Rights Service
Law Centres Network
Migrant Helpline Limited
Migrants resource centre
Newport Mind Association
Nottingham Law Centre
Nova Wakefield District Limited
Peterborough Asylum and Refugee Community Association (PARCA)
PKAVS Trading Company Limited
Polish British Integration Centre LTD
Positive Action in Housing
Rights of Women
Riverside Community Health Project
Royal Association for Deaf people (RAD)
Simon Community Scotland
South Tyrone Empowerment Programme
Southampton Citizens Advice Bureau

St Pauls Advice Centre
St Vincent de Paul Society
Sutton Borough Citizens Advice Bureaux
Thames Reach Charity Ltd
The Bridge Renewal Trust
The Limehouse Project Limited
THE NOAH ENTERPRISE
The Refugee and Migrant Centre Ltd
The Scottish Association of Citizens Advice Bureaux
Tros Gynnal Plant
Wirral Change Ltd



T: 0300 244 4000  
E: scottish.ministers@gov.scot

Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
Home Office  
2 Marsham Street  
3rd Floor Peel Building  
London  
SW1P 4DF

CC: Jeremy Miles AM

4 June 2019

*Dear Caroline,*

Thank you for your letter of 8 May following our meeting at the Devolved Administrations roundtable on 27 March 2019.

I found the meeting constructive and I am pleased that we have committed to quarterly roundtables which I believe are a vital part of the process of creating a future immigration system. As I said when we met, if the UK Government is to meet its aspiration of creating an immigration system that meets the needs of all parts of the UK then it has to create an immigration system that meets the needs of Scotland. The evidence from our Expert Advisory Group on Migration and Population, that I passed to you at our meeting, clearly demonstrates that the proposals in the White Paper will not meet those needs. A range of business organisations and employers across the public and private sectors have expressed strong concerns about the impact of the White Paper proposals in Scotland.

I note that the Home Secretary met with some local business leaders to discuss the Immigration White Paper when he was in Aberdeen on 7 May 2019. As we discussed in March, I would welcome the opportunity to host you and the Home Secretary to hear from a range of key stakeholders from across Scotland and their views on the future of the UK's immigration system. Scottish businesses are eager to have their voices heard on this vital issue which will have long-term effects on businesses and communities in Scotland.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



I know that there has been official level engagement with organisations in Scotland but I think it is really important that you and the Home Secretary hear directly from employers in Scotland. I would be delighted if you and the Home Secretary accepted this invitation, and in the meantime I look forward to our next roundtable in the coming weeks. I am copying this letter to Jeremy Miles AM, Counsel General and Brexit Minister.



**Ben Macpherson MSP**  
**Minister for Europe, Migration and International Development**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)





2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Ben Macpherson  
Scottish Government  
Minister for Europe, Migration and International Development  
St Andrew's House  
Calton Hill  
Edinburgh  
Scotland

4 JUL 2019

*Dear Ben*

Thank you for your letter of 4 June 2019.

As you are aware, the Government is undertaking an extensive engagement programme across the UK on our proposals for the UK's future skills-based immigration system, including Scotland. Since January, we have delivered over 100 events reaching an estimated 1500 stakeholders and events have been delivered in every nation.

You have noted in your letter that the Home Secretary met with a range of sector representatives, including agriculture, oil and gas and hospitality at a roundtable he recently hosted in Aberdeen. I know he found it particularly informative to hear directly from stakeholders in Scotland.

My officials have also engaged with multiple stakeholders in Scotland, including attending the Scottish Strategic Migration Partnership and organising bespoke roundtables with the food and drink sector, financial services, life sciences, the legal sector and the education sectors. I understand my officials are working with yours to target other stakeholders to ensure we hear a broad range of views over the remainder of 2019.

The Home Secretary and I are absolutely committed to continuing to seek input from across the UK and further engagement directly with stakeholders is an important part of that. My officials will continue to feedback to the Home Secretary and I on the engagement they are having with stakeholders in Scotland.

I look forward to engaging further at our next Devolved Administration Ministerial Roundtable on 23<sup>rd</sup> July 2019.

*Your sincerely  
Caroline*

**Rt Hon Caroline Nokes MP  
Minister of State for Immigration**



T: 0300 244 4000  
E: scottish.ministers@gov.scot

Caroline Nokes  
Minister of State for Immigration

Email: [MinisterforImmigration@homeoffice.gov.uk](mailto:MinisterforImmigration@homeoffice.gov.uk)

20 June 2019

*Dear Caroline,*

[Redacted]

Our position on family migration, as stated in our February 2018 discussion paper, is clear: everyone entitled to live in Scotland – both international migrants and UK citizens – should be able to bring close family with them.

Scotland's needs are not the same as the rest of the UK - our falling birth rates and ageing population means Scotland is entirely reliant on migration for future population growth and economic prosperity. We want to encourage people who can make a positive contribution to Scotland to be able to stay and build their future here. There is increasing support for a

Scottish Ministers, special advisers and the Permanent Secretary are covered by

the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

tailored migration policy for Scotland – a solution that meets our needs and allows Scotland to continue to be a vibrant, diverse, prosperous nation.

[Redacted]

I also look forward to our next quarterly meeting in July and hope that we can discuss how we ensure that a future migration system meets Scotland's distinct needs.

A handwritten signature in black ink that reads "Regards, Ben".

**Ben Macpherson**  
**Minister for Europe, Migration and International Development**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)





# Home Office

Rt Hon Caroline Nokes MP  
Minister of State for Immigration

2 Marsham Street,  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Ben Macpherson MSP  
Scottish Government  
Room 2N  
15 St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

CTS Reference: M2846/19

1 JUL 2019

*Dear Ben*

Thank you for your letter of 20 June, [Redacted]

The Home Office relies on Members observing the convention that they deal with personal enquiries only from their own constituents. Where Members are contacted by those who are not their constituents, those people should be referred to the relevant constituency Member.

[Redacted]

It may be useful to explain that the current Home Office's policy on Family Migration concerning the minimum income requirement states that the purpose of the minimum income requirement, implemented in July 2012 with other reforms of the family Immigration Rules, is to ensure that family migrants are supported at a reasonable level so that they do not become a burden on the taxpayer and they can participate sufficiently in everyday life to facilitate their integration into British society.

Family life must not be established here at the taxpayer's expense and family migrants must be able to integrate if they are to play a full part in British life.

The minimum income requirement was set, following advice from the independent Migration Advisory Committee, at £18,600 for sponsoring a partner, rising to £22,400 for also sponsoring a non-European Economic Area (non-EEA) national child and an additional £2,400 for each further such child.

This reflects the level of income at which a British family or a family settled in the UK generally ceases to be able to access income-related benefits. In February 2017, the Supreme Court upheld the lawfulness of the minimum income requirement under the family Immigration Rules. The Court found that the minimum income requirement is not a breach of the right to respect for private and family life under Article 8 of the European Convention on Human Rights (ECHR) and is not discriminatory. The Supreme Court endorsed the approach in setting an income requirement for family migration that prevents burdens on the taxpayer and ensures migrant families can integrate into our communities. The Supreme Court agreed that this strikes a fair balance between the interests of those wishing to sponsor a non-EEA national partner to settle in the UK and of the community in general.

The Supreme Court asked the Home Office to look at how, in cases involving exceptional circumstances, it assesses all the financial support available to the family. The Statement of Changes in Immigration Rules HC 290, which came into effect on 10 August 2017, gives effect to the Court's findings such that, in circumstances where refusal of the application could otherwise breach ECHR Article 8, other credible and reliable sources of income, financial support or funds available to the couple may be taken into account under the minimum income requirement.

Paragraph 21A of Appendix FM-SE, inserted by HC 290, sets out objective criteria by which decision makers will in such cases assess the genuineness, credibility and reliability of other sources of income, financial support or funds. Each case will be considered on its merits, in the light of all the information and evidence provided by the applicant.

The minimum income requirement can be met in a number of ways in addition to or instead of income from employment or self-employment. Full details can be found on the website by searching for Appendix FM 1.7 Financial Requirement at: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk).

The only practical and fair means of evidencing income from self-employment, involves the provision of information and documentation relating to tax returns. Therefore, all the income that is counted towards the minimum income requirement must be drawn from the last one or two full financial years. Applicants and sponsors will need to consider the timing of applications relying on self-employment income in order to meet these requirements.

The Home Office recognises that some sponsors will have a reduced earning capacity as a result of disability or caring for someone with a disability. Therefore, an applicant whose sponsor is in receipt of a specified disability-related benefit or Carer's Allowance will be exempt from meeting the minimum income requirement and has instead to meet a requirement for adequate maintenance (equivalent to Income Support level). They will need to show that they remain exempt from the minimum income requirement at the next application stage or they will otherwise need then to meet that requirement.

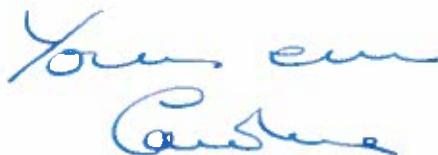
In all family cases, the decision maker will consider whether the Immigration Rules are otherwise met and if not, will go on to consider whether there are exceptional circumstances which would render refusal a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family. Each application is considered on its merits and on a case-by-case basis taking into account the individual circumstances.

The family Immigration Rules, together with the guidance on exceptional circumstances and children's best interests, provide a clear basis, approved by the Supreme Court, for considering immigration cases in compliance with ECHR Article 8. In particular, the Immigration Rules reflect the qualified nature of ECHR Article 8, setting requirements which properly balance the individual right to respect for private or family life with the public interest in safeguarding the economic well-being of the UK by controlling immigration, in protecting the public from foreign criminals and in protecting the rights and freedoms of others. The Rules also give direct effect to the Home Secretary's statutory duty to have regard, as a primary consideration, to a child's best interests in making an immigration decision affecting them.

Section 19 of the Immigration Act 2014 set out Parliament's view of what the public interest requires in immigration cases engaging the qualified right to respect for private and family life under ECHR Article 8. It requires the courts to give due weight to that public interest when deciding such cases. This means that the public interest in family migrants being financially independent and able to speak English, as required by the family Immigration Rules, is now underpinned by primary legislation

The Home Office has continued to keep the family Immigration Rules under review and to make adjustments in light of feedback on their operation and impact. It has also taken into account the findings of the courts, including the Supreme Court judgment upholding the lawfulness of the minimum income requirement. This ongoing review process will continue. However, our overall assessment is that the family Immigration Rules are having the right impact and are helping to restore public confidence in the immigration system.

In relation to Scotland obtaining its own tailored migration policy, the UK Government's position remains that a single UK wide immigration system is the best approach for all parts of the UK. These issues were fully explored in a debate in the house of Commons on 26 June, to which I replied on behalf of the Government.

A handwritten signature in blue ink, appearing to read "Yours ever" followed by "Caroline".

Rt Hon Caroline Nokes MP  
Minister of State for Immigration



T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Rt Hon Caroline Nokes MP  
Minister of State for Immigration  
Home Office  
2 Marsham Street  
3rd Floor Peel Building  
London  
SW1P 4DF

13 July 2019

Dear Caroline

I am writing to advise you of matters I plan to raise in discussion at the next Ministerial round table on immigration, scheduled for 23 July in London. It is a positive step to have established this group as an ongoing forum for engagement on immigration issues, and I hope this letter helps frame a useful discussion. I am mindful that this is a period of some uncertainty at Westminster but, in the spirit of good intergovernmental relations, hope that we can retain this continued engagement at Ministerial level. I know our offices are also discussing the potential for a bilateral meeting that day, which would be very helpful.

**Future Borders and Immigration System**

I note that the Home Secretary has given a further commission to the Migration Advisory Committee on salary thresholds in the skilled worker route, including regional salary levels, and it would be helpful to understand the UK Government's thinking in asking the MAC to look again at this question. As you know, the proposed threshold of £30,000 would have a catastrophic effect on Scotland's economy so it is welcome this review has been commissioned.

Given the significance of the matter to Scotland, I would also like to discuss how we can work together to deliver the regional immigration pilot projects the MAC recommended in their most recent report, which was a welcome acknowledgement of the need for tailored migration policy for different parts of the country. The Immigration White Paper proposed a review of the role of the MAC, which the Home Secretary touched on in his letter to the Chair, and I would appreciate an update on that strand of work, including terms of reference and timescales.

I would like to discuss timescales for implementation of the new immigration system. This would include an update on progress of the Immigration and Social Security Coordination (EU Withdrawal) Bill, how much of the new system you expect to deliver for 1 January 2021, how much you believe can be phased in over a period of time and when that might begin.

I would also like to address 'no deal' preparations, including any update you can offer on the European temporary leave to remain visa proposal and its impact on Scottish

universities, which Richard Lochhead and I raised with you in our letter of 1 February. I know we discussed this last time we met and there was an acknowledgement of the need to address this issue but it is not clear that there has been any progress towards a resolution. I'm aware the Home Secretary has written to Dr Tim Bradshaw of the Russell Group on the matter, but the continuing lack of clarity is unacceptable and we hope for progress before this meeting. This is clearly an issue of considerable concern and it is important that Scottish universities know for sure that this will be addressed and resolved quickly.

I would appreciate an update from you on the implications of the Home Secretary's recent comments on international students and post-study work, supporting Jo Johnson MP's amendment. It would be good to understand when and how the Home Secretary's personal support will be reflected in government policy, and if it will be extended to include all international students rather than just EU, EEA and Swiss as the Johnson amendment proposes. I would also like to hear from you what engagement you and your officials have had with groups representing students who have been unfairly disadvantaged by flawed English language testing and what steps the Home Office is taking to resolve this issue.

There are two immigration issues affecting offshore industries in Scotland that I hope to raise with you. I know that the Cabinet Secretary for the Rural Economy, Fergus Ewing, wrote to you on 25 July 2018 about the use of transit visas to employ non-EU nationals in the fisheries sector. This practice can, indirectly, contribute to cases of exploitation where non-EU crew members are unable to come onshore and are required to remain at sea for extended periods without the protection of UK employment rights and suitable living and working conditions. Although such exploitation is not widespread, it does take place, and creating a more appropriate route for these essential workers to gain immigration status allowing them to live and work in the UK, including territorial waters, is a necessary first step to tackling the problem.

### **EU Settlement Scheme**

Another offshore issue arises in the context of the EU settlement scheme. As I set out in my letter of 17 April there continues to be little detail about the process through which frontier workers will be able to apply for a document certifying their rights. My immediate concerns are around arrangements for Scottish Government staff working on fisheries compliance and research vessels, and the crews of two Northern Isles freight ships providing vital lifeline services for the island communities that they serve. In both instances EU citizens are undertaking these critical roles in remote locations and urgently need clarity on their position. A discussion on progress would be welcome.

More broadly, I would welcome a discussion on amending the current EU Settlement Scheme from a constitutive to a declarative system. The Scottish Government believes that EU citizens should not need to apply to maintain the rights they already have. A declaratory system, avoiding the need to make an application and removing the threat of refusal except in the most extreme circumstances, would best protect the rights of EU citizens living here.

This includes the right to remain in the UK, and to retain the associated rights to which they are entitled. A declarative system must be underpinned by primary legislation. The legislation should clearly set out the rights of EU nationals who are resident in the UK at the point of leaving the EU. This would provide greater certainty for EU citizens and would ensure that any changes proposed by a future government would be subject to increased scrutiny by the UK Parliament.

The need for this certainty is now urgent and well overdue, and I fully support the aims of the Costa Amendment as a means to bring to an end the years of insecurity and anxiety. I was pleased to see that Stephen Barclay has recently written to Michel Barnier setting out the UK Government's support for the positions of the 3Million and the British in Europe and seeking agreement for further joint work to secure citizens' rights.

I strongly urge the UK Government to commit every effort to resolving this issue as quickly as possible. However, it remains open to the UK Government to guarantee the rights conferred on EU citizens in the UK by the Withdrawal Agreement unilaterally and I seek your assurance that the UK Government is committed to this course of action should the joint work to secure citizens' rights fail.

It would also be helpful to discuss various issues regarding the operation of the EU Settlement Scheme. For example, it would be helpful to know whether the Home Office is developing plans to provide physical proof of pre-settled and settled status and to discuss what is being done to ensure the transfer from pre-settled to settled status is as smooth as possible. Publication of accurate and timely data by the Home Office will be key in ensuring our efforts to support EU citizens in Scotland are reaching those who need it and I would like to understand what the data will include and how often it will be published.

### **Future Meetings**

Finally, in relation to these meetings, I would welcome a brief discussion on how best we and our respective officials work together to develop the agenda for future roundtables, and how actions are recorded and monitored.

I hope you will have the opportunity soon to visit Scotland again to meet with a broader range of stakeholders in connection with the EU settlement scheme and the future immigration system. I would be very pleased to facilitate this for you, as I suggested in my letter of 4 June, and to join those discussions to hear concerns and think together about solutions. I would also highlight Fiona Hyslop's letter of 29 May to the Home Secretary, proposing a Ministerial discussion on the specific visa issues facing attendees of our world famous Edinburgh festivals and other important conferences and events across Scotland and the UK.

I have copied this letter to Jeremy Miles AM, Counsel General and Brexit Minister for the Welsh Government; and to David Sterling, Head of the Northern Ireland Civil Service.

Kind regards,



**Ben Macpherson MSP**  
**Minister for Europe, Migration and International Development**



Home Office

Rt Hon Brandon Lewis MP  
Minister of State

2 Marsham Street  
London  
SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

15 August 2019

Ben Macpherson MSP  
Minister for Europe, Migration International Development  
By Email Only

Dear Ben,

### **EU SETTLEMENT SCHEME – 1 MILLION GRANTED STATUS**

I would like to update you on the progress to date of the EU Settlement Scheme, which enables resident EEA and Swiss citizens and their family members to secure their rights here.

I am pleased to inform you that the latest internal figures show that more than one million EEA and Swiss citizens and their families have been granted status under the EU Settlement Scheme, just a few months after the Scheme opened. This significant milestone sends a clear message to EU citizens; they are our friends, family and neighbours and we want them to stay.

The official statistics for July have also been published today, 15 August, and are available on GOV.UK. We hope that this milestone and the latest application statistics will continue to encourage those who have not yet applied to the Scheme to make their applications.

#### **Citizens' rights**

I would like to echo the Prime Minister's recent words and our unequivocal guarantee to the 3.2 million EEA and Swiss citizens and their families living and working in the UK.

I thank them for their continued contributions to our society, and I can assure them that under this government they will have the absolute certainty of the right to live and remain here. Deal or no deal, EEA and Swiss citizens will have until at least 31 December 2020 to apply.

I understand the huge importance of ensuring that resident EEA and Swiss citizens feel valued and reassured that their future in the UK is certain. The EU Settlement Scheme offers them the security they require, enabling them to continue living in the UK after we leave the EU, with the same rights to work, study and access benefits and services as they have now. The secure online status granted to them under the Scheme will make it quick, easy and convenient for them to evidence their rights at any point in the future.

## **Support, engagement and communications**

To coincide with the launch of the Scheme, the Home Office launched a £4 million marketing campaign to further encourage EEA and Swiss citizens to apply. We continue to engage with stakeholders across the UK, hosting webinars, teleconferences and events to promote the Scheme and inform businesses, devolved administrations, embassies, local authorities and community groups about how best to support these individuals. I wanted to take this opportunity to thank you for your engagement with my officials on the Scheme. Your support is very much appreciated.

We have also awarded up to £9 million to 57 voluntary and community sector organisations across the UK, who are mobilising their services and are already providing outreach to help us reach vulnerable and at-risk citizens and their family members. Additional support in completing an application has been made available through a network of over 300 assisted digital locations across the UK and assistance is available by telephone or email from the EU Settlement Resolution Centre.

## **Future activity**

As the Scheme progresses, our communications activities will become more focussed to reach those EEA and Swiss citizens who are yet to make their application. We will be using the insight gained through our conversations with your representatives and other stakeholders to ensure that we produce further communications materials that are relevant to EEA and Swiss citizens, including infographics, animations and printed materials, to ensure that guidance around the EU Settlement Scheme is accessible to all.

We will soon be launching a search function on the GOV.UK website to enable users to find their nearest support services for the EU Settlement Scheme. This includes the network of 57 organisations who have received grant funding from the Home Office to support EU citizens who might need additional help when applying to the EU Settlement Scheme, and the UK-wide network of assisted digital support centres. A tool is already available on GOV.UK to locate the nearest ID document scanner, where individuals can go to get their biometric ID document scanned, as an alternative of using the EU Settlement Scheme app.

**Further information**

Please do continue to signpost EEA and Swiss citizens to the GOV.UK website to stay informed and encourage them to sign up to receive EU Citizen Email Alerts from the Home Office.

I would like once again to extend my thanks to you and your staff for your continued collaboration and close working in support of our shared objectives on the EU Settlement Scheme. My officials will continue to work with yours as this work progresses.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Brando Lewis".

**RT HON BRANDON LEWIS MP  
MINISTER OF STATE**



---

Llywodraeth Cymru  
Welsh Government



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

Rt Hon Brandon Lewis MP  
Minister of State for the Home Office  
2 Marsham Street  
London  
SW1P 4DF

23 August 2019

Dear Brandon

We would like to congratulate you on your appointment as Minister of State for the Home Office. We understand you will have responsibility for elements of migration policy and look forward to working constructively with you on this important portfolio, which as you know, has significant economic and social implications for all nations of the UK.

Despite our very different approach to migration policy, we had begun to develop a valuable dialogue with your predecessor. We very much hope you will be able to continue that dialogue.

In particular the regular roundtable meetings we held with your predecessor, along with representatives from the Northern Ireland Executive, provided a useful, structured opportunity for meaningful engagement.

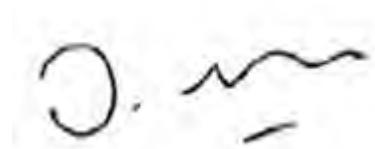
With the next meeting having been proposed for early autumn we are urgently seeking a meeting with you and, in line with your predecessor's commitment, hope you will also honour a series of one to one meetings with each Devolved Administration.

While we welcome the suggestions from the Prime Minister and other Cabinet Ministers that the proposals in the Government's White Paper might be reconsidered, we are alarmed at the apparent intention to end free movement for EU citizens on 31 October, with no plans in place for a replacement system or transitional period.

In our view, this poses an imminent threat to employers in both the public and private sectors and jeopardises the rights of EU citizens who are already resident here but who have not yet secured settled status.

We would appreciate a discussion at the earliest opportunity to allow us to feed in our perspective to the developing position.

Yours sincerely

A handwritten signature in black ink, appearing to read "J. Miles".

**Jeremy Miles AM**  
Y Cwrsler Cyffredinol a Gweinidog Brexit  
Counsel General and Brexit Minister

A handwritten signature in black ink, appearing to read "Ben Macpherson".

**Ben Macpherson MSP**  
Minister for Europe, Migration and  
International Development

Minister for Europe, Migration and  
International Development  
Ben Macpherson MSP



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

Minister for Further Education,  
Higher Education and Science  
Richard Lochhead MSP

T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Rt Hon Brandon Lewis MP  
Minister of State  
Home Office  
2 Marsham Street  
3<sup>rd</sup> Floor Peel Building  
London  
SW1P 4DF

---

5 September 2019

Dear Brandon,

We note the publication of the policy paper on no deal immigration arrangements for EU citizens who arrive after Brexit.

There are notable similarities between this policy paper and the proposals set out by the then Home Secretary in January 2019, notably the proposal that EEA citizens wishing to stay in the UK for longer than three months would need to apply for European Temporary Leave to Remain. This policy appeared to have been developed without any understanding of the needs of Scottish universities where undergraduate degrees are typically four years in duration.

In February we wrote to the then Immigration Minister, Caroline Nokes, setting out our significant concerns about the impact of this proposal - concerns which we also raised in person in meetings with UK Ministers. While we are still awaiting a formal response to our letter, we were given some reassurance by Ms Nokes that our concerns would be addressed.

We were therefore deeply disappointed to see the latest announcement on the proposed three year European Temporary Leave to Remain policy.

Our immediate concerns with the proposed three year European Temporary Leave to Remain policy announced yesterday remain the same as those set out in February. It will have a severe negative impact on the higher education sector in Scotland. It is deeply disappointing that the UK Government continues to ignore the fact that the majority of undergraduate courses in Scotland are four years in length, despite these concerns being raised repeatedly by Scottish Ministers and the Russell Group. The three-year non-extendable time limit will have serious consequences for

Scottish institutions, putting them at a competitive disadvantage with regards to undergraduate recruitment. Due to the fact that the criteria for extension are yet to be published and the risk for undergraduates that an extension could be refused, this policy, and the uncertainty it creates, is likely to discourage EU citizens applying to Scottish universities as there is no guarantee they will be able to complete their courses.

However, the negative effects of this policy go much wider than Scotland. All EU students undertaking non-standard length courses will be seriously disadvantaged. This will include PhD and medical students, those studying part-time, female students who may go on maternity leave and many others who do not fit neatly into a three-year undergraduate degree model.

The view of the Scottish Government is that this is likely to be discriminatory against particular groups. We would be grateful if you could provide information on the measures the Home Office intends to take to address these issues and any equality impact assessment which was undertaken when developing this policy.

In order to plan effectively for a no-deal situation, the higher education sector in Scotland urgently needs further details on the practical implementation of this policy. We have been waiting for a reply to our previous request for clarification for seven months. We would be grateful therefore if you could provide details on the full eligibility criteria and application process for European Temporary Leave to Remain.

We would also like to stress that this situation is wholly unnecessary. This policy only serves to increase the confusion, anxiety and insecurity many EU citizens currently feel. It is entirely within the gift of the UK Government to take a clear policy position that the rights of EU citizens will remain the same regardless of the outcome of negotiations by honouring the Settlement Scheme as set out in June 2018 which would allow EU citizens arriving up until December 2020 to apply for pre-settled status rather than the proposed 36 month Euro LTR. This would send a clear message to EU citizens that they remain welcome in the UK and would provide some much-needed certainty for the higher education sector. This is more important than ever given the current impasse in Westminster.

It is also deeply disappointing that the views of the Scottish Government were not sought in the development of this policy in spite of the commitment to meaningful engagement received repeatedly from the Home Office. The Scottish Government reiterates its commitment to working with the Home Office in an open and constructive manner and this situation could have been avoided if the Home Office had taken into account Scotland's unique situation as previously highlighted on many occasions. It is also regrettable that, once again, we were given no notice of the impending publication of this policy which, I'm sure you will agree, does not fulfil the UK Government's public commitment to genuinely involve the devolved administrations in the Brexit process.

We are sure you will agree that EU citizens contribute a huge amount to our economy, society and culture and are a vital component of the higher education sector in Scotland. We urge the UK Government to reconsider this policy and provide certainty by guaranteeing the provisions for EU citizens set out in the Withdrawal Agreement even in the event of a no-deal.

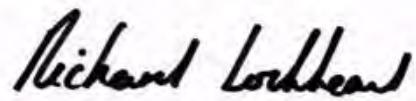
The Scottish Government maintains that the UK Government should immediately rule out no-deal and seek an extension to the Article 50 process.

We would be grateful if you could consider these issues as a matter of urgency and look forward to your prompt response.

I am copying this letter to the Secretary of State for Education, the Secretary of State for Business, Energy and Industrial Strategy, the Brexit Minister for Wales, Jeremy Miles, and the Secretary of State for Scotland.



**Ben Macpherson MSP**  
**Minister for Europe, Migration  
and International Development**



**Richard Lochhead MSP**  
**Minister for Further Education,  
Higher Education and Science**



T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Rt Hon Brandon Lewis MP  
Minister of State  
Home Office  
2 Marsham Street  
London  
SW1P 4DF

4 October 2019

*Dear Brandon,*

Thank you for your letter of 15 August sharing the latest figures on the number of successful applications to the UK Government's EU Settlement Scheme.

People who choose to make Scotland their home provide a vital contribution to Scotland's economy, enhance our communities' social and cultural well-being, and help to make Scotland the open and outward-looking nation that it is today. We want EU citizens to continue to feel welcome in Scotland. Therefore, I welcome the news that over 67,000 EEA and Swiss citizens have successfully applied to stay in Scotland.

However, there are a number of outstanding issues and concerns that need to be urgently addressed and resolved. I am concerned about the high numbers of individuals being awarded Pre-Settled Status and the potential confusion about this status. While a number of EU citizens have applied to the Scheme there are real concerns about the very significant numbers of people who have not yet applied, and therefore risk losing their legal right to remain in the UK. It is also clear that the UK Government's rhetoric around the ending of Freedom of Movement has created a very real risk that EU citizens may face discriminatory treatment when seeking to access services to which they are entitled.

I know that you have been very clear in your public statements that the UK Government wants EU citizens to stay in the UK. The challenge is to ensure that the actions and policies of the UK Government match that aspiration. The EU Settlement Scheme figures clearly show that there is a challenge to increase application rates, especially amongst certain communities.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



The Scottish Government has always been clear that EU citizens should not need to apply to maintain rights they already have and that the EU Settlement Scheme should be declarative. Removing the need to make an application, and consequently avoiding the threat of refusal, would best protect the rights of EU citizens living here. This includes the right to remain in the UK, and to retain the associated rights to which they are entitled.

Alternatively, a similar outcome could be achieved by dis-applying the requirement to accrue five years' residence for Settled Status, and thus removing the differential status of Pre-Settled Status. This would mean that any EU citizen (or their eligible family members) applying to the EU Settlement Scheme with evidence supporting the minimum eligibility requirements for Pre-Settled Status (or more) should be granted Settled Status. Anyone who previously obtained Pre-Settled Status would automatically be granted Settled Status.

This would represent a decisive action to clearly secure the rights of all EU citizens resident in the UK at any point of leaving the EU, avoiding the creation of several distinct cohorts, each with differing rights and status, and removing the requirement for some individuals to apply twice to secure their long-term right to remain in the UK. Additionally, it would be a simple step towards mitigating possible discrimination based on status and reduce unnecessary bureaucracy for the UK Government, and for both those delivering front-line services and those who access them.

The UK Government has the power to provide EU citizens with clarity and certainty and I would urge the UK Government to fulfil the Prime Minister's commitment to provide EU citizens with "absolute certainty to live and remain" through "a guarantee in law." Short of establishing a declarative system, ensuring that all EU citizens are granted the more secure Settled Status would be a valuable step in achieving this, underpinned by primary legislation and with the option of physical proof of status if requested.

We also remain unsighted on the process for landlords and service providers to distinguish between EU citizens resident in the UK before EU exit, who are yet to apply for Settled Status, and those arriving after any EU Exit day. There is a real danger that EU citizens face future discrimination and are refused access to vital services they are entitled to. Ensuring that all EU citizens are awarded Settled Status would be a key step towards mitigating some of the great risks of ambiguity presented to EU citizens, and also to their employers, businesses and public service providers.

The Scottish Government wants EU citizens to stay in Scotland. We have committed over £1 million to provide practical information, advice and support to EU citizens about how their rights are affected by any EU exit, and how they can continue to access devolved public services. We have therefore consistently pressed the UK Government at both official and ministerial levels for access to appropriate Scotland level data on applications to the EU Settlement Scheme, to ensure that we can target our support appropriately. While the public release of some Scotland level data is helpful, it is disappointing that this data was not shared with the Scottish Government several months ago when we made the original request.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [WWW.lobbying.scot](http://WWW.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[WWW.gov.scot](http://WWW.gov.scot)



It would be valuable to have further detail incorporated in the Scotland level data in future, including age and gender. This information would provide vital insight into applications, highlight any equality issues and allow us to target our support to those who need it most.

There are a number of other important outstanding issues, which I raised in correspondence with your predecessor. These include the process through which frontier workers, including Scottish Government staff working on fisheries compliance and research vessels, and the crews of two Northern Isles freight ships providing vital lifeline services for the island communities that they serve, will be able to certify their rights. This issue was urgent when I first raised it in April, and these EU citizens, who are undertaking critical roles in remote locations, urgently need clarity on their position.

I am mindful that I have now written to you on a number of occasions since your appointment. There are clearly issues on which we fundamentally disagree but there is a shared obligation on us to work together to safeguard the rights of EU citizens, and to ensure that any new immigration proposals meet the needs of all parts of the UK including Scotland. Scotland has distinct demographic needs and all of our future population growth is projected to come from migration. In their February 2019 report, the independent Expert Advisory Group on Migration and Population forecast that Scotland will experience greater population ageing than other parts of the UK. We should engage constructively to provide solutions to seek to address these challenges.

Therefore, it would be helpful to reinstate the regular meetings between Home Office Ministers and the Devolved Administrations. We had agreed that these should take place on a quarterly basis, with the last meeting in July.

**To reiterate, in conclusion, the UK Government must now urgently implement the Prime Minister's promise to guarantee the rights of EU citizens in the UK. Short of a declarative system, the current extraordinary circumstances should mean that those who have chosen to make the UK their home should be granted full Settled Status, and not have to accrue five years' residence before being given an indefinite right to remain. Pre-Settled Status is an unnecessary step in the process, should be scrapped and should be replaced with full Settled Status for all successful applicants to the EU Settlement Scheme.**

I am copying this letter to Counsel General and Brexit Minister of Wales, Jeremy Miles and the Secretary of State for Scotland.

I look forward to your response.



**Ben Macpherson MSP  
Minister for Europe, Migration and International Development**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)





# Home Office

Rt Hon Brandon Lewis MP  
Minister of State for Security and  
Deputy for EU Exit and No Deal  
Preparation

2 Marsham Street,  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Ben Macpherson MSP  
Minister for Europe, Migration and International Development  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

HOCS Reference: MIN/0014914

26<sup>th</sup> October 2019

Thank you for your letter of 4 October about the rights of EEA citizens residing in Scotland.

Firstly, as you recognise, I entirely share your sentiments regarding the value of the contributions which EEA citizens make to our communities, public services, economy and national life across the UK. Securing the rights of resident EEA citizens remains a priority of this Government and I am pleased that the EU Settlement Scheme is delivering on this commitment. Our latest internal figures show that we have now received more than 2 million applications under the scheme, and the latest published statistics show that to 30 September 2019 more than 1.5 million people had been granted status under the scheme: <https://www.gov.uk/government/statistics/eu-settlement-scheme-statistics-september-2019>.

People still have plenty of time to apply – until 31 December 2020, for those EEA citizens resident here before Brexit if we leave the European Union without a deal; until 30 June 2021, for those EEA citizens resident here by the end of the planned implementation period on 31 December 2020 if we leave on the basis of the draft Withdrawal Agreement reached on 17 October.

Regarding your concern about people being granted pre-settled status under the EU Settlement Scheme, I would like to reassure you that a grant of pre-settled status under the scheme is not a refusal. Pre-settled status allows those who have been continuously resident here for less than five years to stay until they qualify for settled status. This is what we agreed with the EU and matches their free movement rules whereby someone generally acquires permanent residence after five years' continuous residence. Both pre-settled and settled status mean that the person's current rights in the UK are secured in UK law. Importantly, nobody has been granted pre-settled status without first being given the opportunity to show they qualify for settled status. Not providing for pre-settled and settled status would break with the EU free movement rules which the scheme reflects.

I do not agree that we should rely on a declaratory approach as you suggest, where people are conferred status in the UK automatically, by Act of Parliament. Experience clearly shows that declaratory systems do not work. They risk causing confusion especially for the most vulnerable. Such an approach could mean that, in years to come, EEA citizens resident here before Brexit struggle to prove their status and access the benefits and services to which they are entitled. This Government will not allow that to happen.

Primary legislation would also be inappropriate for the detailed provision required to establish and operate the EU Settlement Scheme. We have provided for the scheme in secondary legislation, through the Immigration Rules, which are made under the Immigration Act 1971. This is the established statutory means by which the UK immigration system is delivered. Furthermore, as debated and agreed by both Houses of the UK Parliament during the passage of the European Union (Withdrawal) Act 2018, it would not be practical to make all of the required legislative changes necessary to facilitate Brexit through primary legislation.

The Immigration and Social Security Co-ordination (EU Withdrawal) Bill, announced in the Queen's Speech, will reinforce our commitment to ensuring that resident EEA citizens, who have built their lives in and contributed so much to the UK, have the right to remain. The Bill – as, if we leave the EU with a deal, would the European Union (Withdrawal Agreement) Bill given its Second Reading by the House of Commons on 22 October – will confirm the deadline for applications to be made under the EU Settlement Scheme, and give applicants a right of appeal against decisions made under the scheme, if we leave the EU without a deal.

With regard to proof of status granted under the EU Settlement Scheme, the Home Office will not issue a physical document to EEA citizens granted status under the scheme. They will be given a secure digital status, as part of moving the UK immigration system to digital by default. Digital status is more secure, cannot be lost, stolen or tampered with, is more easily used by those with some disabilities, and allows more detailed information to be displayed to those who need it. Holders of this status will also be able to choose to allow third parties such as employers or landlords to have time-limited access to relevant information, to demonstrate their status.

I want to be absolutely clear that until the new points-based immigration system is introduced from January 2021, EEA citizens will be able to prove their right to take up employment, rent accommodation and access services and benefits to which they are entitled to, as now, by using their valid passport or national identity card. Employers and landlords will not be required to distinguish between EEA citizens who arrived before and after Brexit until the future immigration system is introduced from 2021.

When the EU Settlement Scheme launched fully in March, the Home Office delivered a £3.75 million national marketing campaign to raise awareness of the scheme. A further £1 million campaign launched on 18 October. Advertising and local events are now underway to support the cross-government Get Ready campaign, including with businesses, local authorities and community organisations. All available channels will be used to reach our audiences – such as direct marketing, radio, video-on-demand, outdoor advertising, presentations, email updates, toolkits and webinars to name a few. Communications toolkits for employers and community leaders are also available on GOV.UK to enable employers and other partner organisations to cascade information to EEA citizens and their family members. We have also engaged extensively with the voluntary and community sector about how we can, together, communicate the EU Settlement Scheme to hard-to-reach groups, with £9 million in grant funding supporting 57 organisations across the UK in helping vulnerable EEA citizens to apply.

In a 'no deal' scenario, freedom of movement as it currently stands under EU law will be brought to an end when we leave the EU. Border crossing arrangements will remain basically unchanged for the time being. EEA citizens will continue to enter the UK as they do now, using their passport or, for the time being, their national identity card. They will be able to use e-Gates if they are travelling on a biometric passport, and they will not face routine intentions testing.

In the case of a 'no deal' Brexit, the Home Office will open a new immigration scheme – the European Temporary Leave to Remain Scheme – to enable EEA citizens moving to the UK during the transitional period before the introduction of the new system, and their close family members, to apply for a UK immigration status if they wish to remain here after 2020. Applications will be free of charge and will involve a simple online process and identity, security and criminality checks.

Successful EEA citizen applicants will be granted a period of 36 months' leave to remain in the UK, running from the date the leave is granted. This will provide EEA citizens who move to the UK after a 'no deal' Brexit, and their employers, with certainty during the transitional period, and will ensure that they have a secure UK immigration status before the introduction of the new points-based immigration system from 2021.

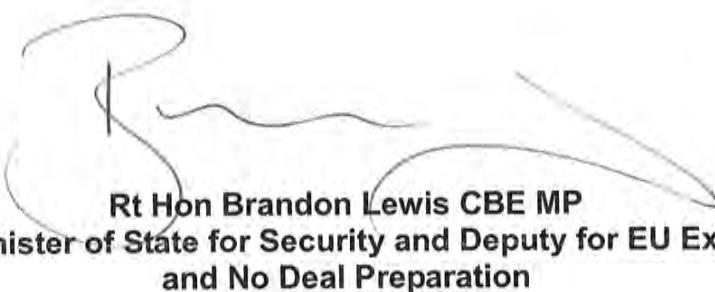
More information about these arrangements can be found here:<https://www.gov.uk/government/publications/no-deal-immigration-arrangements-for-eu-citizens-moving-to-the-uk-after-brexit>.

Regarding frontier workers, I can confirm that until January 2021 – when the new points-based immigration system is introduced – they will not have to do anything to protect their right to work in the UK. More information regarding frontier workers in the new immigration system will be made available in due course.

I am grateful to the Scottish Government for its continued engagement with the Home Office on these important matters. I recognise the value of our administrations working together to ensure that EEA citizens and their family members obtain the UK immigration status they need, and that the new points-based immigration system works for the whole of the UK.

I would therefore like to continue with the quarterly meeting of the Devolved Administrations Ministerial Immigration Roundtable and invite you to attend the next one in the coming months. My office will be in touch shortly to identify possible dates, so that we can continue this important conversation.

I am copying to this letter to Counsel General and Brexit Minister of Wales, Jeremy Miles and to the Secretary of State for Scotland and the Secretary of State for Wales.



Rt Hon Brandon Lewis CBE MP  
Minister of State for Security and Deputy for EU Exit  
and No Deal Preparation



Kevin Foster MP  
Parliamentary Under Secretary for Immigration  
Home Office  
2 Marsham Street  
London  
SW1P 4DF

27 January 2020

*Dear Kevin,*

I am writing to congratulate you on your appointment as Parliamentary Under Secretary for Immigration and to advise you that the Scottish Government has today published a paper, *Migration: Helping Scotland Prosper*, which I attach. This paper fulfils our 2019/20 Programme for Government commitment to produce a follow up to our February 2018 paper on Scotland's unique population needs and a tailored migration policy.

This paper details Scotland's unique population and demographic needs, and shows how a tailored solution for Scotland could help meet these. We have conducted extensive engagement with stakeholders across Scotland and have found overwhelming support for a tailored migration solution for Scotland.

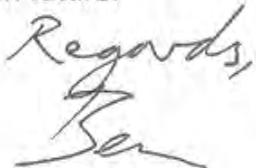
We have also conducted regular engagement with the other Devolved Administrations and the Home Office to ensure Scotland's voice is heard and the needs of our country, our communities and our citizens is taken into account in the design of the future borders and immigration system in the UK.

It is vital that any immigration system works for Scotland and, since our needs are demonstrably unique, the need for a tailored solution is clear.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

I would also like to take this opportunity to invite you to a Festival Visa Summit hosted by the Cabinet Secretary for Culture, Tourism and External Affairs, Fiona Hyslop. This event, held in Edinburgh on Wednesday 26 February, will bring together stakeholders from across the UK to discuss the issues facing those wishing to enter the UK to take part in festivals. I hope you are able to attend and if so please contact my officials at [migration@gov.scot](mailto:migration@gov.scot) who will provide the agenda and full details.

I look forward to engaging with you in future.



**Ben Macpherson MSP**  
**Minister for Europe, Migration and International Development**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



# Home Office

**Kevin Foster MP**  
**Minister for Immigration**

2 Marsham Street,  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Ben Macpherson MSP  
Minister for Europe, Migration and  
International Development  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh, EH1 3DG

11<sup>th</sup> February 2020

*Dear Ben,*

Thank you for sending me a copy of the report on immigration which has been prepared by the Scottish Government.

Under the terms of the devolution settlement, immigration is a reserved matter.

Regional differences in the rules and visa arrangements around the UK would result in an overly complex system with additional burdens for business, employers and migrants. There are many workers who are required to move regularly between locations, and it is unrealistic to create a visa binding a person to one part of the UK. It is also important to recognise the scale of the activity of the borders, immigration and citizenship system, and the challenges it already faces. We are simplifying and streamlining processes as part of introducing a new system which recognises the needs of all four nations of the UK, including Scotland, and offers more of the sort of flexibility employers, and others, have called for.

You will be aware the Migration Advisory Committee (MAC) has consistently said, including in its most recent report published last month, the same salary thresholds should apply across the United Kingdom and the labour market of Scotland is not sufficiently distinct to justify different arrangements. The MAC has also noted any system of differential arrangements would add considerably to the complexity of the immigration system.

We will deliver on the people's priorities by introducing a points-based immigration system from 2021 to attract the brightest and best talent from around the world, while cutting low-skilled immigration and bringing overall numbers down. We will set out the details of this firmer and fairer new system in due course.

The Scottish Government has considerable powers when it comes to investment, infrastructure and job creation. I would expect to see these used to confirm Scotland as an attractive place for people from across the UK to live, work and stay, rather than seeking to cure problems through migration. I spoke about some of these issues on my visit to Glasgow on 27 January, where I saw first hand the dynamism and opportunity it offers to those doing cutting edge research.

Thank you for your invitation to the Festival Visa Summit hosted by the Cabinet Secretary for Culture, Tourism and External Affairs. I will be unable to attend the event. However, we are already engaging with the festival community as part of the future borders and immigration system programme, most recently a few weeks ago, and have held meetings directly with representatives of Festival Edinburgh.

We are already working with the sector to understand how the rules and processes for festivals bringing visiting performers to the UK can be simplified and improved in the future system.

I look forward to working with you as we introduce an immigration system which works for the whole of the UK.

*With my very best wishes,*

*Kevin.*

**Kevin Foster MP**  
**Minister for Immigration**



Ben Macpherson MSP  
Minister for Public Finance and Migration  
The Scottish Government  
St. Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

19 February 2020

Dear Ben,

## **THE UK'S POINTS-BASED IMMIGRATION SYSTEM – POLICY STATEMENT**

Today we are spelling out the biggest shake-up of the UK's immigration system in a generation, welcoming the most talented people from around the world and restoring public trust in our immigration system.

We will introduce the Immigration and Social Security Co-ordination (EU Withdrawal) Bill shortly to end free movement and to pave the way for a points-based system which will attract the high-skilled workers we need to contribute to our economy, our communities and our public services. We intend to create a high wage, high-skill, high productivity economy across our United Kingdom.

We will deliver a system which works in the interests of each nation of our United Kingdom, for all parts of England, Scotland, Wales and Northern Ireland. We will prioritise the skills a person has to offer, not what passport they hold.

We recognise these proposals represent a significant change for UK employers, and they will need to adjust. However, the British people sent a clear message on immigration through the 2016 referendum and the 2019 General Election that significant change is precisely what they want, and this Government is determined to deliver that change.

For too long, distorted by European movement rights, the immigration system has been failing to meet the needs of the British people. Our proposals will change this. We are implementing a programme of change to transform the way in which all migrants come to the United Kingdom to work, study, visit or join their family.

From 1 January 2021, we will replace free movement with the UK's Points-Based System to cater for the most highly skilled workers, skilled workers, students and a range of other specialist work routes including for the global talent and innovators who will make such a difference to Scotland's positive economic future.

We have considered the Migration Advisory Committee's (MAC) recommendations on regional salary variation carefully. The MAC advised against introducing such variation,

and we agree there is no clear economic case for it. We will deliver a world-class immigration system that works for all parts – and all communities – of the UK.

We will also revolutionise the operation of the UK border, tightening security whilst delivering a better customer experience for those coming to the UK.

EU and non-EU citizens will be treated equally. We will give top priority to those with the highest skills and the greatest talents, including scientists, researchers, academics and those with the specialist skills our economy needs.

We will reduce overall levels of migration, ensuring employers can no longer revert to the easy tactics of employing cheap labour at the expense of investing in technology, automation and training up the UK's domestic workers.

The Policy Statement is available online at <https://www.gov.uk/guidance/new-immigration-system-what-you-need-to-know>

Building on our extensive engagement in 2019, we will deliver a comprehensive programme of communication and engagement with stakeholders across Scotland. The details of this will be announced shortly.

I am copying this letter to the Secretary of State for Scotland.

Yours ever,

A handwritten signature in black ink, appearing to read "Foster".

**Kevin Foster MP**  
**Minister for Future Borders and Immigration**



Rt Hon Priti Patel MP  
Secretary of State for the Home Department

*Sent by email*

15 May 2020

Dear Home Secretary,

The current COVID-19 pandemic and consequent economic crisis have unfolded at an extraordinary pace. As part of our collective response, the Scottish Government believes that the size and unique nature of the current shock means that the UK Government must pause and reconsider its plans for a new immigration system.

Furthermore, as we go through and beyond this crisis, I would like to develop a more collaborative approach to migration policy in order to create an immigration system that meets the needs of all parts of the UK. I would welcome a constructive discussion with you in good faith about these issues.

### **COVID-19: immediate changes to the immigration system**

In light of the current crisis, there are some immediate changes required to ensure that everyone in the UK can access vital services. In line with some other European countries, I consider it necessary that all migrants should be granted Leave to Remain (LTR) during this difficult time. At the very least, I urge you to lift No Recourse to Public Funds (NRPF) restrictions and remove the Habitual Residency Test to ensure the welfare of migrants in the UK during the pandemic, something which the Prime Minister has said is a priority for the UK Government.

In addition, the UK Government's decision in December 2018 to double the Immigration Health Surcharge was wrongheaded, as are current proposals to increase this charge to £625 per annum which would more than triple the cost in the space of only a year. It is unjust that the Immigration Health Surcharge means that people who settle in the UK effectively pay twice for healthcare services, both through the Immigration Health Surcharge and their own tax and national insurance contributions.

Whilst I recognise and welcome that the charge is being dropped for some health and social care key workers as part of the visa extension scheme, it is unfair that many other key workers will still have to pay this excessive cost to access the health service. Therefore, I urge you to drop the Immigration Health Surcharge for key workers across all sectors, particularly as many households will face financial difficulty as a result of the pandemic.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

## **“Lower-skilled” workers**

The COVID-19 crisis has clearly and starkly demonstrated the UK’s reliance on key workers, many of whom came originally from the EEA - essential front-line services and industries, on which we depend now more than ever, would not be sustainable without their support. Previously the UK Government has made assumptions about the value of different roles in our economy and society, unfairly describing many contributions as “lower-skilled”. The current experience has shown that we must value all skills and that the proposed salary selective approach to future immigration policy is inappropriate, and would be ineffective, and indeed damaging, in response to the skill requirements of a post-COVID-19 world. I strongly urge you to reconsider this proposed approach and want to work with you to recognise the vital role played by these key workers. The Scottish Government opposes an arbitrary salary threshold as a measure of whether or not someone should be able to work in the UK. If a threshold must be set then it should be well below the proposed level of £25,600.

The UK Government must also, once and for all, stop describing the contributions of many key workers as “lower-skilled” jobs, as this terminology is inaccurate and demeaning. Going forward the UK Government must show a greater appreciation of all contributions and this should be articulated in an inclusive and respectful way. The current global pandemic has powerfully demonstrated that what the UK Government may have previously described as “lower-skilled” jobs are in fact a whole range of absolutely vital roles, filled by dedicated people with valuable skills.

## **EU Settlement Scheme (EUSS)**

It is the Scottish Government’s position that EU, EEA and Swiss citizens should not have to apply to retain their existing rights, and we continue to urge the UK Government to implement a declaratory system. However, as things stand, we also want to ensure that these people remain in Scotland and that they are informed and supported when applying to the EU Settlement Scheme.

The temporary closure of a number of support services to help people apply to the EU Settlement Scheme means that it is now prudent to extend the deadline for applications to the scheme, so that vulnerable people who require additional support are not doubly penalised as a result of the pandemic. Whether or not an extension to the deadline is granted, I continue to be concerned that EU, EEA and Swiss citizens who are unaware of the need to apply to the EU Settlement Scheme, particularly children and young people, will inadvertently become unlawfully resident in the UK.

Moreover, the Scottish Government maintains that the UK Government should remove the requirement for EU, EEA and Swiss citizens to live in the UK for five years before being eligible for full Settled Status. Replacing the less secure Pre-Settled Status with full Settled Status would be a decisive action to secure the rights of all EU, EEA and Swiss citizens in the UK and remove the requirement for some individuals to apply to the EU Settlement Scheme twice. It would also be a simple step towards mitigating potential discrimination based on status and would reduce unnecessary bureaucracy for those delivering front-line services, those accessing front-line services and the UK Government.

Individuals granted status under the EU Settlement Scheme should also be given the option of receiving physical proof of their status. This would be in addition to, not instead of, a digital status. Some applicants will not have the skills or resources to access their digital status or to

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



share it with others. I am deeply concerned that the lack of a physical document could hinder access to employment, housing, services or benefits to which people are entitled.

### **Timings: future border and immigration system**

The robustness of the economy and the capacity of firms to engage with plans for a radically changed migration system by January 2021 are highly questionable assumptions at this time. This is why the design and implementation of the new immigration system should be reconsidered to ensure that businesses can be genuinely engaged in the development of the new streamlined system and properly prepared for its introduction. As you will be acutely aware, businesses across the UK expressed serious concerns about the proposed changes to the system at the time of publication, before the additional challenges brought about by COVID-19. There must be a significant risk that there isn't sufficient time for the UK Government to be able to properly test and implement the system by January 2021. I also do not believe that there is sufficient time for businesses to prepare for what, for many, will be a very different approach to securing the skills they require.

There is an urgent need for a review and simplification of the current visa system if it is to be extended to EEA citizens, and the Scottish Government has welcomed the indication that the UK Government plans such a review. I would strongly urge that the costs of the current visa system form part of such a review – the immigration system should focus on what a prospective migrant can contribute, not on their ability to pay, and therefore fees and charges should be proportionate. I also welcome the fact that you have accepted the Migration Advisory Committee's (MAC) recommendations that there should be an immediate pause in setting the minimum income threshold for the path to settlement and a full review of the requirements for settlement.

### **Shortage Occupation List**

It seems likely that as the UK economy emerges from the current downturn there will be long-term structural changes to the economy. This introduces an unprecedented level of uncertainty into any attempt to accurately predict the UK's future skills needs. Therefore, the current timeline of September 2020 for the MAC's review of the Shortage Occupational List (SOL) should be moved to a time when it will be realistically possible for the MAC to meaningfully engage with employers about their future skills needs and to produce a robust and flexible future-proofed list. The Committee note that this "is a substantial piece of work, on an important issue that will help shape the UK migration system and economy for years to come", and so adequate time must be provided for them to undertake this important task diligently and effectively.

I support the continuation of the SOL for Scotland and the development of SOLs for Northern Ireland and Wales. However, in future it will be important to secure intergovernmental agreement on how the Devolved Governments will be able to meaningfully influence the development of their particular list, given the positive impact migration has on devolved areas such as local labour markets and public services. I would also like to discuss the future role of the MAC and how it can better serve the interests of the Devolved Governments, possibly through a shared secretariat amongst UK Government and the Devolved Governments.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

## Regional approaches and solutions

I would like to explore how we can apply a regional aspect to the migration system, for instance by weighting or awarding additional points to encourage more migrants to work outside of London and the South East. The Scottish Government previously supported the MAC's recommendation to pilot a scheme to attract and retain migrants in remote rural areas and I would be very happy to work collaboratively with the Home Office on the design and implementation of such a pilot.

## Demographics

As well as the question of future skills needs, the COVID-19 pandemic and resulting economic shock should provide an important opportunity to reconsider the UK Government's overall aim of reducing levels of inward migration into the UK, which even before the COVID-19 pandemic was projected to have a deeply damaging impact on Scotland.

Without inward migration the UK faces population decline which will disproportionately affect Scotland: it is highly doubtful whether we can afford an increasing dependency ratio at a time when the tax base will likely have been severely eroded. It is abundantly clear that reducing migrant numbers will detrimentally impact on many sectors and industries that are particularly key to Scotland and the other Devolved Governments, including social care, agriculture, food processing, manufacturing, construction and tourism.

## Intergovernmental Ministerial engagement

Finally, there has been no Ministerial engagement with the Devolved Governments on immigration policy since July 2019. It is vital that this regular engagement is reinstated at this time and I would be grateful if we could arrange a video conference as soon as possible, together with relevant Ministers from the other Devolved Governments. The COVID-19 pandemic has brought to the fore the value of meaningful and regular communication between the UK Government and the Devolved Governments.

I have copied this letter to Kevin Foster MP, Parliamentary Under Secretary of State (Minister for Future Borders and Immigration); Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster; Rt Hon Alister Jack MP, Secretary of State for Scotland; Jeremy Miles AM, Counsel General for Wales; Rt Hon Simon Hart MP, Secretary of State for Wales; Diane Dodds MLA, Minister for the Department of the Economy, Northern Ireland; Rt Hon Brandon Lewis MP, Secretary of State for Northern Ireland; the Home Affairs Committee and the Scottish Affairs Committee of the UK Parliament and the Culture, Tourism, Europe and External Affairs Committee of the Scottish Parliament.

I look forward to receiving your responses to the points raised in this letter and an early discussion on the UK's future immigration system.

Yours sincerely,

**Ben Macpherson MSP**  
**Minister for the Public Finance and Migration**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



Ben Macpherson MSP  
Minister for Public Finance and Migration  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh, EH1 3DG

2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

16 June 2020

Dear Ben,

Thank you for your letter to the Home Secretary of 15 May 2020. I am replying as the Minister for Future Borders and Immigration.

## **COVID-19: immediate changes to the immigration system**

We are all facing a rapidly evolving and unprecedented global health emergency and the Government is committed to taking the appropriate and necessary action to support people through it.

We have brought forward many measures which can be accessed by migrants, though I do not agree granting Leave to Remain to every foreign national present in the UK, including short term visitors, is the appropriate action to take for several reasons, not least the practicalities of such an undertaking. I also do not see a need for this with all the unprecedented support and assistance the UK Government is already providing, regardless of immigration status.

As you are aware, we have already extended all Leave to Remain and visas that were/are due to expire after 24 January 2020, to 31 July 2020. This applies to visa nationals who cannot return home due to the travel restrictions imposed on account of the COVID-19 pandemic, or due to self-isolation.

The assistance being given under the Coronavirus Job Retention Scheme and the Self-employed Income Support Scheme are not classed as public funds and will be available to all those in work or self-employment respectively, including those on zero-hour contracts and those with no recourse to public funds status. Statutory sick pay and some other contribution-based benefits are also not classed as public funds.

The No Recourse to Public Funds (NRPF) policy is long established and supported by the British public, as it is right for those who benefit from the state to contribute towards it.

Most migrants with NRPF must meet the minimum income threshold, demonstrating they can support themselves and their dependants financially. This is why the majority of migrants from outside of the EEA are granted leave under the condition they cannot access public funds. There is already discretion in our Immigration Rules to vary the NRPF condition for those whose basis to remain in the UK is linked to the exercise of human rights. In such cases, migrants can apply to the Home Office to have the condition lifted.

For more information on NRPF please see our factsheet here:

<https://homeofficemedia.blog.gov.uk/2020/05/05/no-recourse-to-public-funds-nrpf/>

In addition, we announced the provision of an extra £300 million for the devolved administrations: £155 million for Scotland, £95 million for Wales and £50 million for Northern Ireland. This is in addition to the £780 million for Scotland, £475 million for Wales and £260 million for Northern Ireland announced by the Chancellor on 16 March.

All migrants, regardless of status, can access primary NHS care, including testing and treatment for COVID-19 and NHS Trusts have suspended their 'Overseas Visitor' checks. Regulations which came into force on 29 January added COVID-19 to Schedule 1 of the NHS (Charges to Overseas Visitors) Regulations. Therefore, as for any other infectious disease in Schedule 1 of the Charging Regulations, there can be no charge made to an overseas visitor for the diagnosis, or, if positive, treatment, of this coronavirus. No charge applies to a diagnostic test even if the result is negative. No charge can apply to any treatment provided for suspected COVID-19 up to the point that it is negatively diagnosed. This message has been disseminated to NHS staff, the public and organisations representing vulnerable migrant groups. It has also been published in 40 languages on Public Health England's Migrant Health Guide.

On 21 May, the Prime Minister announced all NHS and care staff would now be exempted from the Immigration Health Surcharge and we are working with the Department of Health and Social Care to develop these proposals and will announce further details in due course.

We recognise the tremendous contribution migrants are making to keep vital services running during this incredibly difficult time. As we look to the future, significant changes are necessary if we are to build a recovery which works for the whole of the UK, and which will help us to deliver a high-skill, high-wage and highly productive economy which can thrive for decades to come. Immigration must be a part of this, not an alternative option.

## **Future Borders and Immigration System**

We remain committed to delivering on the people's priorities and to delivering the points-based system from January 2021.

For the same reason, it is important for the Migration Advisory Committee's (MAC) work on the composition of the Shortage Occupation Lists to go ahead to its original timetable. The MAC has just issued its call for evidence and I hope as many businesses as possible, including those in Scotland, will participate.

We will also open key routes from Autumn 2020, so people can start to apply ahead of the system taking effect in January 2021.

We know this will mean change for businesses, which is why we are providing certainty on the new system now and are continuing to engage and work extensively with employers to understand their needs and encourage them to attract the best home-grown talent.

This Government is also committed to helping businesses through this difficult time, which is why the Chancellor announced unprecedented support for businesses including £330 billion in business loans and guarantees, cash grants for small businesses, paying 80% of furloughed workers' wages, business rates holidays and tax deferrals.

The MAC has been clear immigration is not the solution to addressing staffing levels in the care sector, and the MAC has continued to advise against a dedicated route for what you described in your letter as “lower skilled” employment. We want employers to find work for people in the UK, not least the many who will be facing an uncertain future due to the economic impact of the measures necessary to tackle Covid-19. We also agree with the MAC recommendation because we must have a better aspiration for the future of our care sector than it being based on paying the lowest wage possible.

Business will also continue to be able to rely on EU nationals living in the UK with settled or pre-settled status and schemes such as our youth mobility arrangements. The MAC has already pointed to the estimated 170,000 recently arrived non-EU citizens currently in lower-skilled occupations.

Immigration is, and will remain, a reserved matter. The new points-based immigration system will work in the interests of the whole of our United Kingdom and the MAC has consistently recommended against applying different immigration arrangements for different parts of the UK. Applying different immigration rules to different parts of the UK would significantly complicate the immigration system, placing immigration borders across our Union.

The Scottish Government has significant devolved tools at its disposal to attract people to parts of Scotland which have suffered from de-population challenges. A separate immigration system will not resolve these if the fundamental problems remain the same and it might help the Scottish Government to focus on these instead.

### **EU Settlement Scheme (EUSS)**

The EU Settlement Scheme has been fully open since 30 March 2019 and is working well. According to the latest published statistics, more than 3.5 million applications have been received, of which 3.2m have been concluded, and there is over a year to apply before the deadline of 30 June 2021 for all those arriving before December 2020.

It is therefore not necessary to extend the deadline. In line with the Withdrawal Agreement, however, where someone has reasonable grounds for missing the deadline, they will be given a further opportunity to apply to the EU Settlement Scheme. No one will be penalised for circumstances beyond their control.

Throughout the COVID-19 pandemic, there has continued to be a range of support available online, by email and telephone through the Settlement Resolution Centre for those who have questions or need help applying. We have continued to receive and process thousands of applications every day.

Individuals can continue to apply using any laptop or mobile device. They can still use the EU Exit ID Document check app to complete the identity stage of their application. While applications continue to be processed, during this challenging time they may take longer than usual.

To continue to support vulnerable migrants, we announced a further £8 million of funding for 2020-21 to help them apply to the EUSS. This follows the £9m funding provided to 57 charities in 2019/20. Additionally, charities and local authorities are able to bid for further funding to provide face-to-face, online and telephone support to vulnerable people across the UK to help ensure no one is left behind.

The bidding process for this funding launched on 4 May 2020. In light of COVID-19, we decided to extend the competitive bidding process to allow a longer period of time for bids to be submitted. The Home Office is making a level of continuity funding available to the existing 57 Grant-Funded Organisations through to the end of September 2020. As a result, the competitive bidding process will be for up to £4.5 million and will initially cover the period 1 October 2020 to 31 March 2021.

Further information on the help available for applying for the EUSS can be found here: [www.gov.uk/help-eu-settlement-scheme](http://www.gov.uk/help-eu-settlement-scheme)

In response to your concerns about awareness of the Scheme, the Home Office ran a £4 million marketing campaign in 2019 to encourage EU citizens to apply and a new wave of advertising began earlier this year to encourage those who have not yet applied to do so. Adverts appeared on catch-up TV, radio, online and social media, with some also in Polish, Romanian, Italian, Lithuanian and Portuguese newspapers. We have also worked with 57 voluntary and community sector organisations across the country which has enabled us to reach an estimated 200,000 vulnerable or at-risk EU citizens and their family and help them secure their status, and we have held pop-up events to raise awareness, until this became unsafe due to the pandemic.

We have received over 3.5 million applications, so EU nationals currently present in the UK are largely aware of the need to apply to the Scheme.

The requirement to have been living in another Member State for five years (subject to some exceptions) before acquiring a permanent right to reside is pulled from EU law and is compliant with the Withdrawal Agreement. It is right for someone to demonstrate sufficiently long residence in the UK before being eligible for all the benefits and entitlements settled status brings.

The Home Office is developing a border and immigration system which is “digital by default” for all migrants, which over time means we will increasingly replace physical and paper-based products and services with accessible, easy to use online and digital services. This mirrors the approach adopted by other countries, such as Australia, in administering their immigration systems and the way in which people increasingly live their lives.

Individuals, including those applying through the EU Settlement Scheme, will still receive written notification of their immigration status, by email or letter, which they can retain for their own records. They will also be given access to a digital version of their immigration status information, which can be accessed at any time via the online ‘view and prove’ service, and which unlike a physical document cannot be lost or stolen. It also allows individuals to view information about their status whenever they wish and share it securely with third parties, such as employers or public and private service providers.

We are making this move because it provides a better level of service. Individuals have greater transparency and control over their immigration status data, and tailored digital services mean only the information the individual agrees to share is shown, unlike a physical document which must fulfil many purposes, and which can, in the long term, expire, become invalid, or be lost, stolen, damaged or tampered with.

Digital services also allow us to provide information in a format that is easy to understand and accessible to all users, removing the need for employers, landlords and others to interpret myriad physical documents, complex legal terminology or confusing

abbreviations. Users can be confident they are getting information direct from Home Office systems and it tells them what they need to know.

### **Engagement with the devolved nations**

I have been engaging consistently with Scottish businesses and sector representatives, having visited Glasgow in January and met with representatives of the Scottish fishing industry on multiple occasions. I also regularly engage and speak with members of the House of Commons representing seats in Scotland on these issues.

My colleagues at the Scotland Office will have been engaging regularly as well, and there has been extensive engagement at official level with businesses and stakeholders in the devolved nations as part of our comprehensive engagement plans.

Sadly I note the Scottish Government has not been forthcoming in engaging with the points-based system and has encouraged Scottish businesses not to engage with the MAC's current Call for Evidence. I would urge the Scottish Government to reconsider their position on this matter and work constructively with the Scotland Office to ensure the voice

I intend to continue engaging with Scottish businesses as we work to develop a system which will work for them and all parts of the UK.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Foster".

**Kevin Foster MP**  
**Minister for Future Borders and Immigration**



Mr Kevin Foster MP  
Minister for Future Borders and Immigration

*Sent by email*

17<sup>th</sup> June 2020

Dear Kevin,

The Scottish Government is clear that skilled seasonal workers have a significant role to contribute to fruit and vegetable production in Scotland and we are eager to support their employment throughout the COVID-19 pandemic and beyond.

We understand that Concordia is working on behalf of UK Government's Seasonal Workers Pilot to bring 4,000 Ukrainian workers into the UK; 1,500 of which are destined to arrive on Scottish farms before the end of June. We further understand that the first charter flight carrying 160 migrant workers from the Ukraine will be arriving in Edinburgh Airport on Thursday 18 June. Concordia has informed us however that they are not at liberty to supply us with details of the destination farms.

I am writing to express my concern and disquiet at the failure to share this information timeously with Scottish officials to allow us to plan for workers' arrival. It is simply not acceptable for such arrangements to be made without the Scottish Government being advised appropriately. At the moment we appear to be in the unfortunate position whereby the responsibility for providing this information is being passed between Home Office, DEFRA and Concordia. However, the end result is that no-one is taking the responsibility for providing these details. This cannot be acceptable in the current environment. As the lead policy Department, ultimately, responsibility for resolving this issue must rest with the Home Office.

I would hope that we can rectify this and put in place appropriate and meaningful engagement for information sharing for further arrivals of workers. I would request that you agree to immediately put in place protocols to ensure that the Devolved Administrations are actively engaged in the planning and arrangements for all non-UK seasonal workers entering our respective countries, far ahead of entry.

That to me seems entirely necessary and appropriate, given we are all now easing out of lockdown and seeking to put in place measures across our respective populations to help people stay safe and protect others from the virus.

This is needed to enable us to best support these workers during their time in Scotland, alert, in advance, local authorities/public health officials and to facilitate the distribution of translated documentation detailing Scotland's COVID-19 response and measures to take in the event of illness. Given that the first arrivals are now imminent, we urgently need to know the number of workers arriving, their arrival date and their destination farm address.

I look forward to your response detailing the process that will allow Scottish Government officials to be involved in future arrangements relating to all non-UK seasonal workers entering Scotland. I am copying this letter to the Secretary of State for Environment, Food and Rural Affairs.

Yours sincerely,



**Ben Macpherson MSP**  
**Minister for Public Finance and Migration**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



Accredited  
Until 2020





Kevin Foster MP  
Minister for Future Borders and Immigration  
2 Marsham Street  
London  
SW1P 4DF

[MinisterforImmigration@homeoffice.gov.uk](mailto:MinisterforImmigration@homeoffice.gov.uk)

02 July 2020

Dear Kevin,

Thank you for your letter of 16 June. I would like to take this opportunity to respond to the points raised in your response.

### **Covid-19 and changes to the immigration system**

The UK, along with the rest of the world, has for several months been experiencing upheaval on an unprecedented scale as a result of the coronavirus pandemic. The sole focus of businesses, families and communities during this time has been dealing with, and adjusting to, a fast-moving crisis.

Emerging from the pandemic, rebooting the economy, reactivating aspects of the health system and reinvigorating our communities is a process that will continue for months - possibly years - to come. We will continue to face new challenges and unforeseen impacts to which we will need to react, and it is vital that during this time we remain agile and responsive to the needs of our economy and our citizens.

Given that the economic and social landscape of the UK has changed radically since February when the UK Government's immigration proposals were published, I am astounded that the decision has nevertheless been taken to push ahead without revisions to account for the impacts of the pandemic and with no extension to the implementation date.

### **Scottish Government's role in the Migration Advisory Committee**

I would like to discuss the UK Government's approach to the Migration Advisory Committee's commission. If the MAC and the UK Government are sincere in their desire to hear from stakeholders from across the UK, then given the events of this year, the deadline for submission must be extended to allow businesses time to respond in a detailed and considered manner.

On this note, your statement that "*the Scottish Government has not been forthcoming in engaging with the points-based system and has encouraged Scottish businesses not to engage with the MAC's current Call for Evidence*" is entirely untrue on both counts. Scottish Government

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

Ministers, myself among them, are working tirelessly to ensure that the voice of Scottish stakeholders are heard, but at a time when businesses have had a chance to adjust and reassess their needs as the economy begins its recovery. As part of this effort we provided the MAC secretariat with details of over two hundred stakeholders to ensure that Scottish voices were included in the Committee's engagement plans. We have engaged in consultative sessions and we will be providing written evidence to the MAC. The Scottish Government has always engaged fully with the MAC and worked with partner organisations to provide detailed evidence of Scotland's needs. It is also time that Scottish Government Ministers and the devolved administrations were given a formal role in the MAC commissioning process to ensure that Scottish stakeholders are adequately represented.

## No Recourse to Public Funds

I would also like to discuss immediate adjustments to support all those residing here at this difficult time. Lifting the No Recourse to Public Funds (NRPF) condition for all migrants would ensure that no one in the UK faces destitution as a result of not having access to this resource. You state that most migrants must already have demonstrated the ability to support themselves financially and therefore should not need access to public funds. However, we have not been living through normal times and many migrants are now experiencing unforeseen financial hardship directly related to the pandemic, including through job losses. Since most of the public funds included in the NRPF condition are means-tested, there should be no barrier to lifting this condition temporarily for those facing extreme hardship.

## Key workers

In relation to the Immigration Health Surcharge, I reiterate my call for this charge to be scrapped for all key workers. This charge is immoral – anyone in employment and paying tax and national insurance in Scotland has already paid for their right to use the NHS free of charge. Given that the charge is set to triple in the space of a year to £624 in October, and bearing in mind that many key workers are among the lowest paid in our economy, it is only right that they be included in the list of those exempt. (You will note I state “lowest paid” not “lower-skilled” and am dismayed by the UK Government’s continued use of “lower-skilled” to describe workers, including key workers, who throughout the crisis worked selflessly to keep our basic and vital services running.)

Furthermore, the UK’s experience of the pandemic has shown that key workers, and those in lower paid occupations, are among the most vital workers we have. It is clear that the decision to end free movement will create labour force shortages which cannot be filled in the immediate term by the domestic workforce. Proper engagement at stakeholder and intergovernmental level is required to allow dialogue on the proposed salary threshold, which excludes 53% of roles in Scotland, and up to 90% in the care sector.

## EU Settlement Scheme

In relation to EU citizens, I reiterate again that all citizens across the UK have been consumed with dealing with a pandemic for several months. For EU citizens, the restrictions caused by lockdown have made it challenging for many to apply to the EU Settlement Scheme, particularly those who need face-to-face help, which includes those in vulnerable groups.

Whilst you have stated that no one will be penalised for a late application to the Scheme, no details have been made public as to what constitutes ‘reasonable grounds’ for a late application. It is only right that the deadline should be extended beyond June 2021, and that a physical document be provided in addition to digital status to those who want it, to ease the concerns of

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

EU citizens at this difficult time. In relation to funding for community organisations and local authorities to support vulnerable migrants applying to the Scheme, I note that you state this funding will "initially" cover the period 1 October 2020 to 31 March 2021. I would appreciate details for the funding period 1 April to 30 June 2021.

### Engagement with the devolved nations

The devolved administrations were not given an opportunity to contribute to the immigration proposals, in spite of numerous requests for engagement both prior to, during the development of the proposals, and since. Disappointingly, I note that my last meeting with Caroline Nokes, the former Immigration Minister, was almost a year ago, and since then we have been given no forum to engage on Scotland's needs in relation to migration.

Despite the assertion by the UK Government that Scotland does not have specific needs, our evidence-based paper [Migration Helping Scotland Prosper](#), makes clear that inward migration, and a migration system with Scotland's unique needs taken into account, is crucial to our future prosperity. The UK Government's proposals take no account of this fact, and in their current form do not deliver what was promised: an immigration system that works for the whole of the UK.

Looking forward, I would like us to work collaboratively, along with the other devolved administrations, to develop solutions that take account of Scotland's needs now and in the future, and truly deliver an immigration system that works for all parts of the UK. This will allow the UK as a whole to emerge from the coronavirus crisis as strongly as possible, mitigating the worst of the economic and social impacts.

Constructive intergovernmental engagement on this issue is now more urgent than ever, to ensure the UK emerges from this pandemic in as strong a position as possible. I request a conference call with you and the other devolved administrations at your earliest convenience to discuss the concerns I have raised in this letter.

I have copied this letter to Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster; Rt Hon Alister Jack MP, Secretary of State for Scotland; Jeremy Miles AM, Counsel General for Wales; Rt Hon Simon Hart MP, Secretary of State for Wales; Diane Dodds MLA, Minister for the Department of the Economy, Northern Ireland; Rt Hon Brandon Lewis MP, Secretary of State for Northern Ireland; the Home Affairs Committee and the Scottish Affairs Committee of the UK Parliament and the Culture, Tourism, Europe and External Affairs Committee of the Scottish Parliament.

Regards,



**Ben Macpherson MSP**  
**Minister for Public Finance and Migration**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](#)



Mr. Kevin Foster MP  
Minister for Future Borders and Immigration  
2 Marsham Street  
London  
SW1P 4DF

[MinisterforImmigration@homeoffice.gov.uk](mailto:MinisterforImmigration@homeoffice.gov.uk)

31 August 2020

Dear Kevin,

### **Response to the Migration Advisory Committee**

I write to advise you that the [Scottish Government's response](#) to the Migration Advisory Committee (MAC) call for evidence on the Shortage Occupation List (SOL) has been published today.

Our response provides detailed evidence on the labour requirements across sectors of the Scottish economy and shows how the SOL could be made more flexible and responsive to Scotland's needs.

Non-UK citizens make a valuable – often vital – contribution to Scotland's economy and our communities. This has been brought into even starker focus by the COVID-19 pandemic, when many thousands of non-UK citizens have risked their lives in the delivery of frontline services, protecting and supporting our communities. As we emerge from the pandemic, inward migration will remain crucial to Scotland's future prosperity.

Our previous responses to the MAC's calls for evidence on the SOL (March 2019), and on the proposed Salary Threshold and Points-Based Immigration System (December 2019), showed, respectively, the vital contribution citizens from EU countries and further afield make to Scotland's economy; and that a salary-selective system would disproportionately affect Scotland, and be detrimental to our economy and demography.

I am therefore dismayed that your proposals for the future of the UK's immigration system have not only disregarded the needs of Scotland's economy but will be severely detrimental to the delivery of our public services. Many essential roles currently filled by non-UK citizens (including roles in health and social care, agriculture workers, food processors, and logistics and transport) are not accounted for under the current proposals as they fall below the salary or qualifications thresholds.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

Whilst we welcome the extension of roles at RQF 3-5 for the SOL, this does not go far enough to account for many roles in Scotland, which cannot be filled by our domestic workforce.

Whilst the new ‘fast-track’ Health and Care visa is more generous in terms of scope of eligible occupations than the SOL is currently, and which may provide limited support for smaller employers or lower-paid roles (such as independent providers in pharmacy, dentistry and primary care), it is not sufficient to meet the labour requirements of the sector as a whole. Furthermore it is these smaller employers and providers who have relied upon free movement to meet their needs, and who do not hold the sponsor licences necessary for recruitment in the new system. This will be an entirely new process to adapt to as well as presenting additional financial and administrative burdens.

The effect of your immigration proposals will be catastrophic to the social care sector in Scotland: up to 90% of roles within the social care sector earn less than £25,000, and many are below the £20,500 threshold. This, combined with the amount of small independent providers in this sector, means that the vast majority of social care employers will have no immigration route through which to bring workers from overseas. I therefore call for social care roles to be added to the SOL.

Another sector which the UK Government’s plans have disregarded is forestry. Current labour shortages in the sector will be further exacerbated by the proposals, which provide no route for roles which do not meet the qualifications or salary threshold. Furthermore, many roles in forestry are seasonal (including work in forest nurseries and the Christmas tree harvest) and currently, labour is sourced from the EU. With the end of free movement employers will have no means of filling these crucial roles. I therefore call for key roles within the forestry sector to be added to the SOL.

Finally, I would like to emphasise my grave concern that the deadline for responding to the MAC commission has not been extended, given that stakeholders have been focused on dealing with the impacts of COVID-19 over the past several months. Our stakeholders have expressed their concern around the timing of this commission and many will have been unable to respond, or properly consider their future labour needs, which at this stage are impossible to entirely predict.

COVID-19 has reshaped our economy, and the UK now faces the greatest challenge we have experienced in recent memory. It is vital that any future immigration system adequately meets the needs of all nations of the UK, including Scotland, so we can emerge from this crisis a strong competitor in the global arena.

I again urgently request a meeting with you and the other devolved administrations, to discuss the future immigration system and its implementation date.

I would like to highlight that despite repeated calls for such a meeting no invitation has been forthcoming. My last meeting with Caroline Nokes, then Minister for Immigration, was in July 2019. I have since requested meetings with UK Government Ministers to discuss migration a total of six times and a meeting has still not been arranged.

This contravenes the UK Government’s promise to work together with the devolved administrations on the design and implementation of the new immigration system. You have promised to deliver an immigration system that works for the whole of the UK.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

As our response to the MAC shows, the proposals do not work for Scotland. I look forward to receiving an invitation to discuss the concerns I have outlined above.

Best regards,



**Ben Macpherson MSP**  
**Minister for Public Finance and Migration**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



Accredited  
Until 2020





Kevin Foster MP  
Minister for Future Borders and Immigration  
2 Marsham Street  
London  
SW1P 4DF

[ministerforImmigration@homeoffice.gov.uk](mailto:ministerforImmigration@homeoffice.gov.uk)

30 September 2020

Dear Kevin

I write to raise my concerns and request information from you regarding the future of the Seasonal Workers' Scheme (SWPS) which reaches the end of its 2 year pilot phase this year.

I note that to date, no details on the future of the Scheme have been released. Without knowledge of what access they will have to labour next year, growers in Scotland - and elsewhere in the UK – have been unable to adequately plan for next year's season. I should not have to elaborate on the importance of agriculture as part of the nation's critical infrastructure, and request that full details of proposals for the future of the Scheme issued to prevent any possible disruption to our food supply chain next year. It is also imperative that Scottish stakeholders be given the opportunity to engage on any proposals for the future of the Scheme and I request information on how the UK Government intend to conduct this.

While massive efforts were directed toward recruiting the domestic workforce to replace the thousands of EU seasonal agricultural workers that will be lost with the end of free movement, these have not resulted in enough workers with the required skills being recruited and retained in these critical roles. Any future scheme will need to take this fact fully into account to ensure growers are not facing workforce shortfalls next year and beyond. As the National Farmers' Union Scotland have repeatedly advised, a UK-wide Scheme will need to be expanded to 70,000 workers to allow Scotland to receive a share that meets its labour force requirements (which currently stands at circa 10,000 workers).

The end of free movement also places the UK at a critical juncture. Agriculture and many other sectors will now be forced to compete with other European countries for workers who may choose to avoid the bureaucracy and cost of coming to the UK via the available immigration routes. Scottish growers have repeatedly highlighted their concerns that the visa and other costs under the Scheme were too high to make the required production levels sustainable. If these costs are not vastly reduced going forward, this could be disastrous for the future of agriculture in Scotland.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

A further concern is that no details regarding the Scheme's future operators have been released. The current operators (Concordia and ProForce) are unlikely to have the capacity to process the required number of workers. However, the process for any new or additional operators gaining the required licence takes up to a year. I would appreciate your assurances that this is being taken into account and further detail on how this will be managed.

I am also increasingly concerned that there has been no suggestion that the evaluation process for the Seasonal Workers Pilot Scheme has been completed and request further information on the stage this is at. On this note, I am pleased to advise that the Scottish Government is funding a project with the Focus on Labour Exploitation (FLEX) who have been conducting outreach with seasonal agricultural migrant workers in Scotland this year to hear their experiences and concerns, and I would be happy to share the findings with you to help inform the evaluation of the SWPS.

The Scottish Government is determined to ensure that Scotland will remain an attractive destination for all workers, at all skill levels, from all countries, in order to emerge from the coronavirus pandemic, and Brexit, in as strong a position as possible. It has never been clearer that the whole of the UK, but particularly Scotland, benefits hugely from the skills and hard work of people from all over the world. I reiterate my previous requests for a conference call to discuss the future of the immigration system, including the concerns I have raised above, to ensure that Scotland's needs are taken into account. I look forward to engaging with you on these issues more fully going forward.

Regards



**Ben Macpherson MSP**  
**Minister for Public Finance and Migration**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



INVESTORS  
IN PEOPLE

Accredited  
Until 2020





T: 0300 244 4000  
E: scottish.ministers@gov.scot

Kevin Foster MP  
Minister for Future Borders and Immigration  
2 Marsham Street  
London  
SW1P 4DF

By email

15 October 2020

—

Dear Kevin,

I write regarding the Immigration and Social Security Co-ordination (EU Withdrawal) Bill. As you aware, the Bill was heavily amended in the House of Lords on the 5 and 6 October. I call on the UK Government to accept the Lords amendments 1 to 10 when it returns to the House of Commons. In particular, I draw your attention to the following four amendments.

**1. Option of physical proof of status for those with settled and pre-settled status.  
(Lords amendment 5)**

This amendment requires the Secretary of State to provide physical proof confirming settled or pre-settled status to those who request it.

No other group of people in the UK are denied physical proof of their immigration status. All other groups that chose to make the UK their home and contribute to our economy and communities are given physical proof. This differential treatment is wrong not only in principle but also in practice.

The amendment will prevent discrimination. Without the amendment EEA and Swiss nationals will only have digital proof while non-EEA and Swiss nationals will have physical proof. The UK Government's hostile environment policies require employers to check candidates' immigration status. Having two types of proof for two groups will lead at best to confusion and at worst to discrimination. Employers often have to quickly decide who to offer a job to. An EEA or Swiss national will have to request a share code and the employer will have to access the government website to check the candidates immigration status. In this situation, the employer may find it easier to accept someone with physical proof rather than the EEA or Swiss national. Confusion and delay will not only arise in these citizen-to-citizen interactions - it is reasonable to expect similar problems when EEA and Swiss nationals interact with public bodies.

This amendment will particularly assist the vulnerable, including the elderly and people with impaired mental capacity. Some people still have low levels of digital literacy, while others are digitally excluded, with no routine access to the internet. People's vulnerabilities change

of overtime, including their digital skills. The availability of additional physical proof will provide an easily accessible assurance for those that wish to have it, as an appropriate transition takes place towards greater use of digital identities in due course.

People may find it more difficult to leave abusive relationships without physical proof of their immigration status. We know that that coercive partners control victims' phones and email accounts. Without physical proof it may be more difficult for victims to flee their oppressors.

This amendment does not seek to abolish the digital proof but simply adds a modest safeguard - not for all EEA and Swiss nationals, but only for those that request it. The Covid-19 pandemic has brought into focus the immense contribution that EEA and Swiss nationals play in supporting our society, economy and communities. The least we can do in return would be to offer the opportunity of physical proof.

## **2. The ability of close family members of UK citizens to join them in the UK. (Lords amendment 2)**

This amendment will enable UK citizens who have lived in the EU before the end of the transition period to return to the UK accompanied by, or to be joined by, close family members. It will prevent the Secretary of State from imposing conditions on their entry or residence.

An estimated 1.2 million UK citizens live in the EU. Many will have spouses, children and other dependent relatives that are not UK citizens. At the moment families members can enter and remain in the UK under free movement provisions. Without this amendment family members will have to apply through the UK's immigration rules from March 2022.

For many the minimum income requirement to bring a spouse to the UK will be challenging, for others it will be prohibitive. A British spouse must earn £18,600 a year, a threshold that some 40% of UK workers cannot meet. Setting aside the income requirement, family members should not have to undergo the burden of a bureaucratic and expensive application process that may involve interviews and fees.

Again, this amendment will prevent discrimination. Without the amendment, UK citizens living in Europe will be in a worse situation than EU citizens resident in the UK before the end of the transition period. Under the Withdrawal Agreement the latter will be able to bring family members to the UK unconditionally and forever but the former will not. This perverse outcome means that the UK Government will discriminate against its own citizens.

Many of these relationships were formed years before the EU referendum. UK citizens and their families had a reasonable expectation that they would be able to move back to the UK without any financial or administrative hurdles. Indeed, assurances were given during the EU referendum campaign that their rights would not be adversely affected by Brexit.

Again this amendment is limited in scope. It protects the rights of a finite number of people: those who fall within the Withdrawal Agreement, their close family members, and others where the relationship subsisted before January 2021. Many will continue to live in the EU and the numbers in the group will reduce over time.

### **3. Children in care and children leaving care entitled to support: entitlement to remain. (Lords amendment 3)**

This amendment ensures that EEA and Swiss children who are in care, and those who are entitled to support after leaving care, are automatically granted settled status under the EU Settlement Scheme. It will prevent children and young people becoming undocumented. An estimated 5,000 looked after children and 4,000 care leavers are eligible to apply to the EU Settlement Scheme (EUSS).

This amendment provides a safeguard where local authorities fail to apply to the EUSS before the June 2021 deadline. Retention of this amendment would mean that social workers would no longer have to proactively apply to the EUSS on behalf of the children and young people in their care. Children and young people who do not apply before the EUSS deadline may be able to submit a late application but, without this amendment, they will be undocumented. Such a lack of documentation would lead to detrimental outcomes as young people would become subject to the UK Government's hostile environment policies. Young people will suffer difficulties accessing employment, education, benefits and other services. It cannot be in a child's best interests to leave such an important application to hard pressed social workers. This amendment provides a failsafe safeguard.

I also ask that you expand the range of children that are protected by this amendment by including section 26A of the Children (Scotland) Act 1995 in the list categories at section 6(8) of the Bill as amended.

### **4. Leave to enter: family unity and asylum claims. (Lords amendment 4)**

This amendment will ensure that rights under UK law to family reunion, at present covered by the Dublin III regulation, will continue after the transition period and that unaccompanied child refugees in Europe will have a legal route to protection in the UK.

Scotland has a proud history of welcoming child refugees. The First Minister of Scotland wrote to the Secretary of State on 10 August in light of the worsening situation on the Greek Aegean Islands and I repeat that offer of assistance. We stand ready to play our part and urge you to take a humane and welcoming approach to unaccompanied child refugees in Europe.

Child refugees are among the most vulnerable people in the world and their best interests must be a primary consideration. This amendment provides a safe passage for children to reach their family members in the UK. The Secretary of State recently acknowledge that 'legal and viable routes to the UK' help people avoid 'dangerous journeys, such as across the Channel.' This amendment will send a clear message to the traffickers: it is unnecessary to put children at risk of harm by engaging in perilous journeys.

The Dublin III regulation will no longer apply to the UK after the end of the transition period therefore blocking a crucial legal route to the UK for children fleeing persecution. The UK Government's plans for an alternative agreement with the EU have been rebuffed and the likelihood of reaching an agreement before the negotiations end are negligible. It is therefore incumbent on you to act unilaterally. Without action, trafficking of children will proliferate and vulnerable unaccompanied children in Europe will take dangerous and exploitative routes to join their families in the UK.

In summary, the potential benefits of these amendments far outweigh their modest scope and costs. They will give assurance to hundreds, if not thousands, of people and avoid unnecessary discrimination. I therefore strongly urge you to accept these amendments.

Regards,



**Ben Macpherson MSP**  
**Minister for Public Finance and Migration**

CC:

Lord Oates  
Lord Polak  
Lord Kerslake  
Lord McNicol of West Kilbride  
Baroness Hamwee  
The Earl of Clancarty  
Baroness Bennett of Manor Castle  
Lord Rosser  
Lord Dubs  
The Earl Of Dundee  
Baroness Meacher  
Lord Kerr Of Kinlochard  
The Lord Bishop Of Durham  
Nicolas Hatton, CEO of the3million  
Jane Golding, Co-chair of British in Europe  
Fiona Godfrey, Co-chair of British in Europe