

## Annex 5J: Settled Status revisited

We can now see the effects of the EU Settlement ('Settled Status') Scheme in practice, and where the system breaks. Every system breaks at times, of course – whether that be through technical failure, or simply for routine maintenance – and there has been a stream of reports<sup>1</sup> since the scheme began of UK Border Force officials being unable to check the relevant Home Office systems.

When that happens,<sup>2</sup> Home Office front line officers have demanded to see the e-mail that the Home Office itself sends out about settled status, as “proof” of settled status. Yet that e-mail clearly states that it and the letter attached to it are not proof of status:

Dear [REDACTED],

I am pleased to inform you that your application under the EU Settlement Scheme has been successful and that you have been granted **Indefinite Leave in the United Kingdom**, under Appendix EU to the Immigration Rules. This is also referred to as **settled status**.

You can continue (as set out later in this letter) to:

- work in the UK
- use the NHS
- enrol in education or continue studying
- access public funds such as benefits and pensions, if you are eligible for them
- travel in and out of the UK

Your status takes effect from the date of this letter, which can be found above.

This letter is your written notification of leave, which you may wish to keep for your personal records, **but it is not proof of your status and cannot be used to prove your status to others.** Instead, you can view and share details of your status with others using the Home Office online status service 'View and Prove your Settled and Pre-Settled Status': [www.gov.uk/view-your-settled-status](http://www.gov.uk/view-your-settled-status).

To mitigate the unreliability of Home Office systems, UK Border Force (a part of the Home Office) has to revert to visual checks of documents the Home Office has explicitly told lawful residents are not to be relied upon! Whatever the fix may be for this, anything to increase the integrity of the new systems must be outside of the Home Office's direct control at the time of crossing the border.

One simple, straightforward step the Home Office could take right now is to replace the highlighted sentence above with wording like:

“This letter [or e-mail] is not legal proof of settled status, but you should keep a copy safe in case it is needed at the border.”

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<sup>1</sup> A small sample, in chronological order: <https://www.independent.co.uk/news/uk/home-news/Eu-nations-brexite-immigration-digital-status-settlement-scheme-home-office-a9679531.html> (Aug 2020), <https://www.politico.eu/article/eu-citizens-stopped-britain-border-brexite/> (Jan 2021) and <https://www.theguardian.com/politics/2021/may/21/uk-like-an-enemy-state-to-eu-nationals-detained-by-border-force> (May 2021).

<sup>2</sup> And possibly sometimes out of sheer spite...

This divergence of policy between Marsham Street HQ and border outposts around the UK is quite typical; it is for the Home Office to align the two. And unless the Home Secretary wishes

to accept responsibility for every (failed) Settled Status interaction at every border crossing, the Home Office should be providing full and accurate information to lawful UK residents. Because currently, it does not.

Instead the Home Office chooses insecurity, confusion and distress over processes with integrity that are fit for purpose.

## **Sex in passports**

Every passport has a page which is both machine-readable (the 'Machine Readable Zone', or MRZ) *and* human-readable – in order that a human being can know what the passport says, as well as a machine.

Embedded in the UK passport is an RFID chip which provides an electronically-readable copy of the same data that is on that page, electronically signed by the issuing authority. This is how the e-gates at airports work, and it is also why the Settled Status application process required the use of an app; to read people's data from the chip.

At the point of application, the Home Office collected information on people's sex, i.e. M / F, which is stored in the data on the chip, exactly as it appears on the passport page and in the MRZ – but it has never once provided a breakdown of Settled Status applicants by sex.

Failure to provide this most basic of statistical breakdowns is not only negligent, it obstructs Parliamentary and public scrutiny of the Settled Status system and the processes around it, and it undermines trust. Furthermore, in collecting all this data but not using or reporting on it, the Home Office is breaching its data minimisation obligations<sup>3</sup> under UK GDPR.

Collecting personal data you do not use, i.e. that is not limited to what is necessary for the purpose, is clearly unnecessary and disproportionate – and thus a *de facto* breach.

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<sup>3</sup> <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/data-minimisation/>