

IMA

For the Citizens'
Rights Agreements

An Inquiry by the Independent Monitoring Authority for the Citizens' Rights Agreements into Certificates of Application



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Executive summary

In June 2022, the Independent Monitoring Authority (the IMA) commenced an Inquiry with a view to examining whether the Home Office has complied with its obligations under the Withdrawal Agreement and the EEA EFTA Separation Agreement (together, **the Agreements**) to issue Certificates of Application (CoAs) to applicants to the EU Settlement Scheme (EUSS) immediately.

The IMA can use its power to carry out an inquiry if it has reasonable grounds to believe that an inquiry may conclude that the UK or Gibraltar has failed to comply with **the Agreements** or that a relevant public authority has acted or is proposing to act in a way that prevents a person exercising a relevant right.

Gibraltar was not included within the scope of this Inquiry because the EUSS does not extend to Gibraltar.

The IMA was satisfied, from the evidence provided, that there were reasonable grounds to believe that an inquiry may conclude that the UK, through the Home Office, had failed to comply with the Agreements.

The IMA conducted the Inquiry over three parts:

1. we reviewed and assessed the policy and process adopted by the Home Office for issuing CoA to EUSS applicants by conducting interviews with relevant staff and reviewing documents and information from the Home Office,
2. we assessed and analysed how this process is implemented and applied in practice by interviewing operational staff and conducting an onsite case-sampling investigation at the Home Office, and
3. we assessed whether there was any impact on **citizens'** lives caused by the way in which CoA are issued by opening a **Call for Evidence** for the Inquiry.

As a result of the Inquiry, the IMA has reached the following main conclusions regarding the UK's compliance with the Agreements and the extent to which the Home Office has acted in a way that prevents a citizen from exercising their rights:

Compliance

The IMA concludes that:

- the decision to implement a **validity stage** as part of the EUSS does not mean that the UK has failed to comply with **the Agreements** and the Home Office in making this decision has not acted in a way that prevents **citizens** from exercising their rights (see Part 2 of this report at paragraphs 30-39).
- the decision to require the enrolment of fingerprints from a specific category of applicants for the purpose of validating their identity does not mean that the UK has failed to comply with **the Agreements** and the Home Office in making this decision to require fingerprints has not acted in a way that prevents **citizens** from exercising their rights (see Part 2 of this report at paragraphs 60-71).
- for digital applications which did not require manual intervention, the CoAs were issued immediately in compliance with **the Agreements** (see Part 3 of this report at paragraphs 78 and 122).

Failed Compliance

The IMA concludes that:

In June 2021:

- the validation of digital applications which required manual intervention were subject to delays due to an insufficient number of available caseworkers relative to demand. As such, the UK failed to comply with the obligation in **the Agreements** to issue a CoA immediately and the obligation to take all appropriate measures to ensure fulfilment of this obligation (see Part 3 of this report at paragraphs 79-126)
- the Home Office's decision to partially create paper applications on the system and thereby prioritise the issuance of Acknowledgements of Application meant that the UK failed to comply with the obligation in **the Agreements** to issue a CoA immediately and the requirement to take all appropriate measures to ensure fulfilment of this obligation (see Part 3 of this report at paragraphs 79-135)
- there were delays in issuing CoAs to valid paper applications due to an insufficient number of suitably trained caseworkers. This meant that the UK failed to comply with the obligation in **the Agreements** to issue a CoA immediately and the obligation to take all appropriate measures to ensure fulfilment of this obligation (see Part 3 of this report at paragraphs 79-126).

In June 2022:

- the validation of paper and digital applications which require manual intervention continued to experience delays due to an insufficient number of available caseworkers relative to demand. This meant that the UK failed to comply with the requirement in **the Agreements** to issue a CoA immediately and the obligation to take all appropriate measures to ensure fulfilment of this obligation (see Part 3 of this report at paragraphs 152-153).
- the issuing of a CoA for paper applications following validation were subject to continued delays due to a lack of trained caseworkers relative to demand. This meant that the UK failed to comply with the obligation in **the Agreements** to issue a CoA immediately and the obligation to take all appropriate measures to ensure fulfilment of this obligation (see Part 3 of this report at paragraphs 152-153).

The IMA considers that, in order to promote the adequate and effective implementation of the relevant parts of the Agreements, it is appropriate to make the following recommendations to the Home Office:

1. That the Home Office should extract meaningful data from their systems. The collection of this data would be for the purposes of monitoring and responding to the time that it is taking to review and validate applications, and to better manage the system of issuing CoAs (see Part 4 of this report at paragraphs 162-163).
2. That the Home Office should adopt a service standard where CoAs are issued within 5 working days from the time which the application, or any required further information is received (see Part 4 of this report at paragraphs 179-185).
3. That the Home Office should monitor performance against that target (see Part 4 of this report at paragraphs 179-185).

In respect of the recommendations set out above, the Home Office must:

- a. have regard to the recommendations, and
- b. publish a response to the recommendations expeditiously and, in any event, within the period of 3 months beginning with the day on which the IMA published this report.

The Home Office's response must explain:

- a. what, if anything, it proposes to do in response to each recommendation, and
- b. its reasons.

Part 1: The background and context to the Inquiry

The Independent Monitoring Authority

1. The IMA protects the rights of EU and EEA EFTA **citizens**, and their family members, in the UK and Gibraltar by monitoring the implementation and application of **the Agreements** and by promoting the adequate and effective implementation and application of **the Agreements**.
2. The IMA can use its power to carry out an inquiry if it has reasonable grounds to believe that an inquiry may conclude that the UK or Gibraltar has failed to comply with **the Agreements** or that a relevant public authority has acted or is proposing to act in a way that prevents a person exercising a relevant right.
3. This Inquiry has been carried out under paragraph 25 of Schedule 2 to the European Union (Withdrawal Agreement) Act 2020. As set out in the Inquiry's terms of reference (see Annex 4), the purpose of the Inquiry is to:
 - a. examine whether the United Kingdom has failed to comply with the requirement in **the Agreements** to issue a CoA immediately,
 - b. examine whether the Home Office is acting in a way that prevents persons exercising a right created or arising under Part 2 of **the Agreements**, and
 - c. to identify any recommendations that it considers appropriate to be made to promote the adequate and effective implementation or application of Part 2 of **the Agreements**.

The Agreements

4. **The Agreements** set out the arrangements for the withdrawal of the UK from the European Union (the EU).
5. Part 2 of each of **the Agreements** confers certain rights of residence (and other associated rights) on EU and EEA EFTA **citizens**, and their family members, who were, prior to the **end of the transition period** (11pm at 31 December 2020), living in the UK in accordance with EU law and who continue to reside in the UK thereafter. **The Agreements** also confer certain rights on certain categories of family members who were not living in the UK at the **end of the transition period** (joining family members). In this report, EU and EEA EFTA **citizens**, their family members (including joining family members) are all collectively referred to as '**citizens**'.
6. Under **the Agreements**, in broad terms the UK had a choice as to whether to operate:
 - a. a 'declaratory' system, under which **citizens** within scope of **the Agreements** would not, after the UK's departure from the EU, need formally to apply for any particular residency status in order to enjoy rights under **the Agreements**; or
 - b. a 'constitutive' system, under which **citizens** within scope of **the Agreements** would be required to make a formal application for a particular residency status in order to enjoy such rights.
7. The UK opted for a constitutive system. **The Agreements** provide the framework within which a constitutive system for granting residency status must operate. Gibraltar opted for a different system, and this Inquiry does not relate to the implementation of **the Agreements** in Gibraltar.

8. Under **the Agreements**, the UK may adopt a procedure for applications which involves verification of whether an applicant¹ is entitled to rights under **the Agreements**. Importantly, **the Agreements** provide that, while an application is under consideration, the applicant is deemed to be entitled to the rights conferred by **the Agreements**. Without a CoA², an applicant does not have proof of an application and therefore of rights they are entitled to. This means that those who are waiting for the outcome of their application without a CoA will not be able to enjoy the rights to which they are entitled, for example the right to work and right to rent.
9. In cases where **the Agreements** apply, in order to ensure that rights under **the Agreements** are protected while an application for residency status is under consideration, it is essential that the applicant is able authoritatively to prove that he or she has made the relevant application. Accordingly, **the Agreements** require that an applicant for residency status be issued with a CoA immediately.



1 A person who has made an EUSS application.

2 The document issued to pending applicants upon validation of their application. This document is the means by which a citizen can prove that they are a pending applicant and therefore have their rights guaranteed under the Agreements

The EU Settlement Scheme

10. The responsibility for the control and regulation of immigration into the UK rests with the UK Government, principally the Home Office.³ The Home Office has responsibility for implementing the constitutive system referred to above. That system is the EU Settlement Scheme⁴ (EUSS), which is set out in Appendix EU to the Immigration Rules⁵.
11. The **end of the transition period** at 11pm on 31 December 2020 represented the end of freedom of movement of people between the UK and the EU. **The Agreements** operated to provide rights to those **citizens** who had been residing in the UK in accordance with EU law before the **end of the transition period**. A **grace period** from the **end of the transition period** to 30 June 2021 was established in order to give these **citizens** time to apply to the EUSS during which time EU law rights were protected. Any citizen who applied before the **end of the grace period** is considered by the Home Office as an in-time applicant and any citizen applying after the **end of the grace period** is considered a late applicant.⁶
12. **The Agreements** provide that all applicants, both **in-time applicants** and late applicants, are entitled to the rights they are entitled to under **the Agreements** until a final decision has been taken on their residency application.⁷ Prior to 6 August 2021, the Home Office policy was that late applicants had no rights until their application was determined in full. On 6 August the Home Office amended their policy and recognised the rights of late applicants pending a final decision on their application.⁸ The significance of the CoA for late applicants became more apparent after this announcement as the CoA was the means of proving that the citizen had made a valid application to the EUSS and was therefore entitled to their rights under **the Agreements**.

³ www.gov.uk/government/organisations/home-office

⁴ The EU Settlement Scheme is the Home Office scheme which implements Article 18 of the Withdrawal Agreement and Article 17 of the EEA EFTA Separation Agreement. The scheme is implemented by Appendix EU to the Immigration Rules.

⁵ www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu

⁶ Joining Family members who apply after the end of the grace period but within three months are also considered to be in-time applicants

⁷ Which in the UK is implemented through the EUSS

⁸ www.gov.uk/government/news/temporary-protection-for-more-applicants-to-the-settlement-scheme

13. In broad terms, the process for determining an application is split into three stages: (1) validation, (2) suitability, and (3) eligibility. Validation is the first stage and, broadly, is for the purpose of verifying the identity of an applicant. In the UK, a CoA is issued at the end of the **validity stage** and is treated as the authoritative evidence that a citizen has made an application under the EUSS and that he or she is to the rights they are entitled to under **the Agreements** until their application is concluded. A CoA is therefore an essential document for those **citizens** who have applied under the EUSS but have not yet received a decision on their applications. A full description of the **validity stage** is provided at paragraphs 17-18.
14. The **suitability stage** is used to check whether the applicant meets the suitability requirements. Lastly, the **eligibility stage** is then used to check whether an applicant meets the relevant eligibility conditions.⁹
15. Under the EUSS, those who meet the relevant conditions and have lived in the UK for less than five years are granted pre-settled status (PSS). At the time of the Inquiry, these **citizens** would see their PSS expire 5 years after the grant of their PSS. Prior to expiry of their PSS, **citizens** were required to apply again to the EUSS for settled status (SS) (or in some very limited circumstances for another grant of PSS) once they had acquired the necessary five years' residency in the UK. A failure to make such a second application would see these **citizens** lose their rights, including the right to remain in the UK. For these second applications, the CoA would become relevant between the time PSS expires for a citizen and their second application for SS was granted (it is open for **citizens** to apply in advance of the expiry of their PSS where they had met the relevant 5-year residency requirement).
16. During this Inquiry the High Court handed down its judgment in a judicial review brought by the IMA deciding that the loss of rights for holders of PSS was unlawful.¹⁰ The Home Office is currently considering the changes required to the EUSS to adhere to the judgment. Until those changes are announced and implemented it is not clear what role, if any, the CoA will have for **citizens** who already hold a residence status under the EUSS.

⁹ Reflected in caseworker guidance: www.gov.uk/government/publications/eu-settlement-scheme-caseworker-guidance

¹⁰ www.ima-citizensrights.org.uk/news_events/independent-monitoring-authority-successful-in-landmark-high-court-challenge-against-home-office

Validation of applications under the EUSS

17. Under the EUSS, the Home Office will issue a CoA to an applicant only if it has determined that the application is a valid application. A valid application is defined by paragraph EU9 of Appendix EU to the Immigration Rules.¹¹ As a result, an application must satisfy each of the requirements laid down by paragraph EU9 before a CoA will be issued to the relevant applicant.
18. The requirements laid down by paragraph EU9 are as follows.
 - a. The application has been made via the required application process, meaning that the relevant online or paper application has been submitted.
 - b. In a case in which the application is made within the UK, the required proof of identity and nationality has been provided, i.e. for EU and EEA EFTA **citizens**, either a valid passport or valid national identity card; or for **third country nationals**, a valid passport, a valid **Biometric Residence Card (BRC)** or a valid Biometric Residence Permit.
 - c. In a case in which the application is made outside the UK, the required proof of entitlement to apply from outside the UK has been provided, i.e. for EU and EEA EFTA **citizens**, either a valid passport or a valid national identity card containing an interoperable biometric chip; or for **third country nationals**, a valid BRC.
 - d. The required biometrics have been provided. In all cases, a facial photograph of the applicant is required. In the case of **third country nationals** without a BRC making an application within the UK, enrolment of the applicant's fingerprints is also required (see paragraphs 60-68).
19. The Home Office has told the IMA that it considers that the requirements laid down by EU9 (the validation requirements) are necessary to protect the integrity and performance of the EUSS, in that they reduce the risk of fraudulent applications.

11 www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu

Reason for conducting an Inquiry

20. Between April 2021 and March 2022, there was extensive communication between the IMA and the Home Office regarding the issuing of CoAs. At the end of this period, the IMA was not satisfied that the Home Office had been issuing CoAs in compliance with **the Agreements**; in particular, the IMA was concerned that the Home Office may not have been issuing CoAs immediately.
21. The IMA was concerned that the Home Office may not have provided it with a comprehensive account of the nature and extent of any delays in issuing CoAs or of the causes of any such delays. In one of its responses to the IMA, the Home Office told the IMA that:

'It is possible for there to be a gap between the receipt of the EUSS application and its validation. Examples include where an applicant has applied online and is then required to post their identity document to the Home Office, a non-EEA national family member needing to make a biometric enrolment appointment, or an applicant not having the required identity document and seeking to rely on alternative evidence of identity which then has to be verified'.

22. The IMA's view was that it was unlikely that this explanation could account for the very high number of applications in respect of which a CoA had not been issued at that time: for example, provisional data showed that as of 3 December 2021 there were approximately 87,960 applications without a CoA. The IMA was concerned that the true scale of and reasons for delays in issuing CoAs may have been underestimated by the Home Office. The IMA considered that there was evidence to suggest that, in certain cases, a CoA was not issued immediately.
23. The IMA was also concerned that any ongoing delays in issuing CoA could have a significant impact on **citizens** who have not yet applied to the EUSS.

24. As a result, the IMA was satisfied that there were reasonable grounds to believe that an inquiry may conclude that the UK, through the Home Office, had failed to comply with **the Agreements**, and that it would be appropriate to commence an inquiry. Consequently, in June 2022, we decided to commence an inquiry into this matter. This report sets out our conclusions and recommendations.¹² The Home Office will be required to have regard to the recommendations contained in this report and publish a response to the recommendations expeditiously and in any event within three months of the publication of this report. The response of the Home Office must explain what, if anything, it proposes to do in response to each recommendation and its reasons.¹³



12 See paragraph 27 of Schedule 2 to the European Union (Withdrawal Agreement) Act 2020.

13 See paragraph 28 of Schedule 2 to the European Union (Withdrawal Agreement) Act 2020.

Part 2: The process for issuing Certificates of Application under the EUSS

The EUSS: Background and context

25. A CoA is issued to a citizen who has made an application under the EUSS in order to enable him or her to provide evidence of a right to reside in the UK pending the outcome of his or her application. The Home Office informed us that this approach was based on a system previously used in relation to applications made under the Free Movement Directive.¹⁴
26. The Home Office expected that there would be a very large number of applications under the EUSS: at the time of its design, it was anticipated that there would be approximately 3.5 – 4.1 million applications under the EUSS.
27. In fact, the scale of applications far exceeded the initial estimate: by the time of the deadline for making an EUSS application – 30 June 2021 – 6,050,860 applications had been received.
28. The Home Office did not consider that any existing systems or processes would be able adequately to cope with the anticipated level of demand, and so developed a bespoke set of arrangements. An online/digital solution was chosen and a 'digital by default' approach for the EUSS was taken.
29. This approach was intended not only to streamline and manage large volumes of applications, but also to allow immigration status to be recorded, accessed, and shared digitally by the status holder.

14 www.legislation.gov.uk/eudr/2004/38/chapter/I

Figure 1: A brief timeline of the EUSS and discussion about CoAs

June 2016	EU Referendum
Summer 2017	the concept of CoAs being issued under the EUSS was first discussed
February 2018	draft Withdrawal Agreement text provided by the European Commission which included a provision for issuing CoAs immediately
March 2018	<u>Citizens'</u> Rights part of <u>the Agreements</u> agreed
June 2018	UK issue their Statement of Intent for the EUSS
August 2018	testing of the EUSS started: two private beta phases and then a public beta phase
March 2019	EUSS launches
October 2019	Withdrawal Agreement is published

The validation requirement for issuing Certificates of Application

30. As noted in paragraphs 17 – 19, a CoA is only issued once an application has been validated. As part of the validity stage, the Home Office undertakes identity checks. As a result, a CoA is not issued immediately following the submission of an application. We considered whether the inclusion of a validity stage in advance of the issuing of a CoA was a breach of the Agreements.
31. The Home Office says that completing identity checks at the validity stage helps protect the integrity and performance of the EUSS (see paragraph 16). Without these checks, the Home Office says, the EUSS would be open to abuse and fraud and would be at risk of being overloaded with applications from persons who are not entitled to status under the EUSS but who seek to obtain it and, in the meantime, secure temporary rights while their application is being processed.

32. The Home Office told the IMA that it would not have been appropriate to issue a CoA to anyone who simply applied under the EUSS, and that to have done so would have disadvantaged genuine applicants. The Home Office's Policy Equality Statement¹⁵ for the EUSS published on 18 November 2020 summarises the **validity stage** of the EUSS, and the rationale for it, as follows:

'Requiring an application under the EUSS to be valid – because, for example, the applicant has submitted their application through the required process and has proved their identity – before a caseworker considers whether the applicant meets the eligibility and suitability requirements for status under the scheme enables the application process for the EUSS to be made as simple and streamlined as possible for as many applicants as possible, as required by the agreements. It also enables the Home Office to make best use of the available caseworkers rather than have them deal with applications made in whatever form the applicant chooses by people who have not even proved their identity. These are important public interest considerations where the design and resourcing of a scheme dealing with more than four million applications are concerned.'

15 www.gov.uk/government/publications/eu-settlement-scheme-policy-equality-statement/policy-equality-statement-eu-settlement-scheme

33. According to published statistics,¹⁶ as of 31 December 2022, 135,840 applications under the EUSS had been rejected as invalid, i.e. they did not fulfil the validation requirements laid down by paragraph EU9¹⁷ of Appendix EU to the Immigration Rules, and the relevant applicants would not have received a CoA. A further breakdown of reasons why applications were rejected as invalid is not publicly available.
34. The Home Office told us that, in order to assist genuine applicants, the validity requirements may be applied flexibly. In a letter to us on 9 December 2022, it said that:

'Where an applicant is unable to obtain or produce the required identity document due to circumstances beyond their control or for compelling practical or compassionate reasons, the Immigration Rules for the EUSS permit us to accept alternative evidence of identity and nationality...this discretion takes into account the difficulties some applicants previously had in renewing their identity document due to embassy closures in light of COVID-19 related restrictions.'

16 [EU Settlement Scheme quarterly statistics, December 2022 – GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-december-2022)

17 www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu

Compliance with the Agreements

35. Article 18(1)(b) of the Withdrawal Agreement and Article 17(1)(b) of the EEA EFTA Separation Agreement require a CoA to be issued immediately.
36. This obligation should be read alongside the other provisions of **the Agreements**. Specifically, Article 18(1)(i) of the Withdrawal Agreement and Article 17(1)(i) of the EEA EFTA Separation Agreement provide that the identity of applicants shall be verified through the presentation of a valid passport or national identity card for EU and EEA EFTA **citizens** and through the presentation of a valid passport for their respective family members who are not EU or EEA EFTA **citizens**. Furthermore, Article 20(3) and (4) of the Withdrawal Agreement and Article 19(3) and (4) of the EEA EFTA Separation Agreement provide safeguards against abuse of rights and fraud and expressly allow necessary measures to refuse, terminate or withdraw rights. They also allow the removal of applicants who submit fraudulent or abusive applications.
37. During the course of the Inquiry the Home Office explained how they sought to strike a balance between protecting the integrity of the EUSS and ensuring that the rights of **citizens** are protected from the point at which an application is made. A representative from the Home Office said:

'The Home Office has responsibility for providing [EUSS] status for people who are eligible for it, running an industrial scale scheme to do that for millions of people, and crucially, to carry their confidence and wider public confidence in the whole integrity and operation of the scheme'.

38. We consider that the Home Office requirement that an application be validated before a CoA is issued is, in principle, compatible with the Agreements. It is consistent with the provisions in the Agreements that envisage applications being accompanied by valid identity documents and the application of measures to protect any system against fraudulent applications.
39. Accordingly, the IMA concludes that the decision to implement a validity stage as part of the EUSS does not mean that the UK has failed to comply with the Agreements and the Home Office, in making this decision, has not acted in a way that prevents citizens from exercising their rights.
40. While the decision to implement a validity stage may be compatible with the Agreements, it is necessary for that validity stage to be implemented in a manner that is compatible with the Agreements. Part 3 of this report looks at the implementation of the validity stage and at how it failed, in some respects, to effectively meet the obligation in the Agreements to issue a CoA immediately (see paragraph 126).



EUSS application routes

41. Applications under the EUSS can be made online using the 'EU Exit: ID Document Check' app,¹⁸ online without using the app (and submitting the required identity document by post) or in paper format by post. For a short period in June 2021, paper applications could also be submitted via email (see paragraph 92).
42. The system on which an EUSS application is processed will depend on several factors, including whether a paper or digital application is made.
 - a. Paper applications are processed on the Case Information Database (CID), which is one of the Home Office's immigration case-working system.¹⁹
 - b. Digital applications are processed on a newer system called PEGA.
 - c. In some cases, a digital application will require the applicant to post in their identity document (for example, if the applicant chooses not to use the app or if the chip on the passport could not be read by the app). In such cases, manual intervention is required.
43. The Home Office is, in some cases, using a new system (called Atlas) which we understand will be a single system for the EUSS and will eventually be rolled out to other immigration routes.

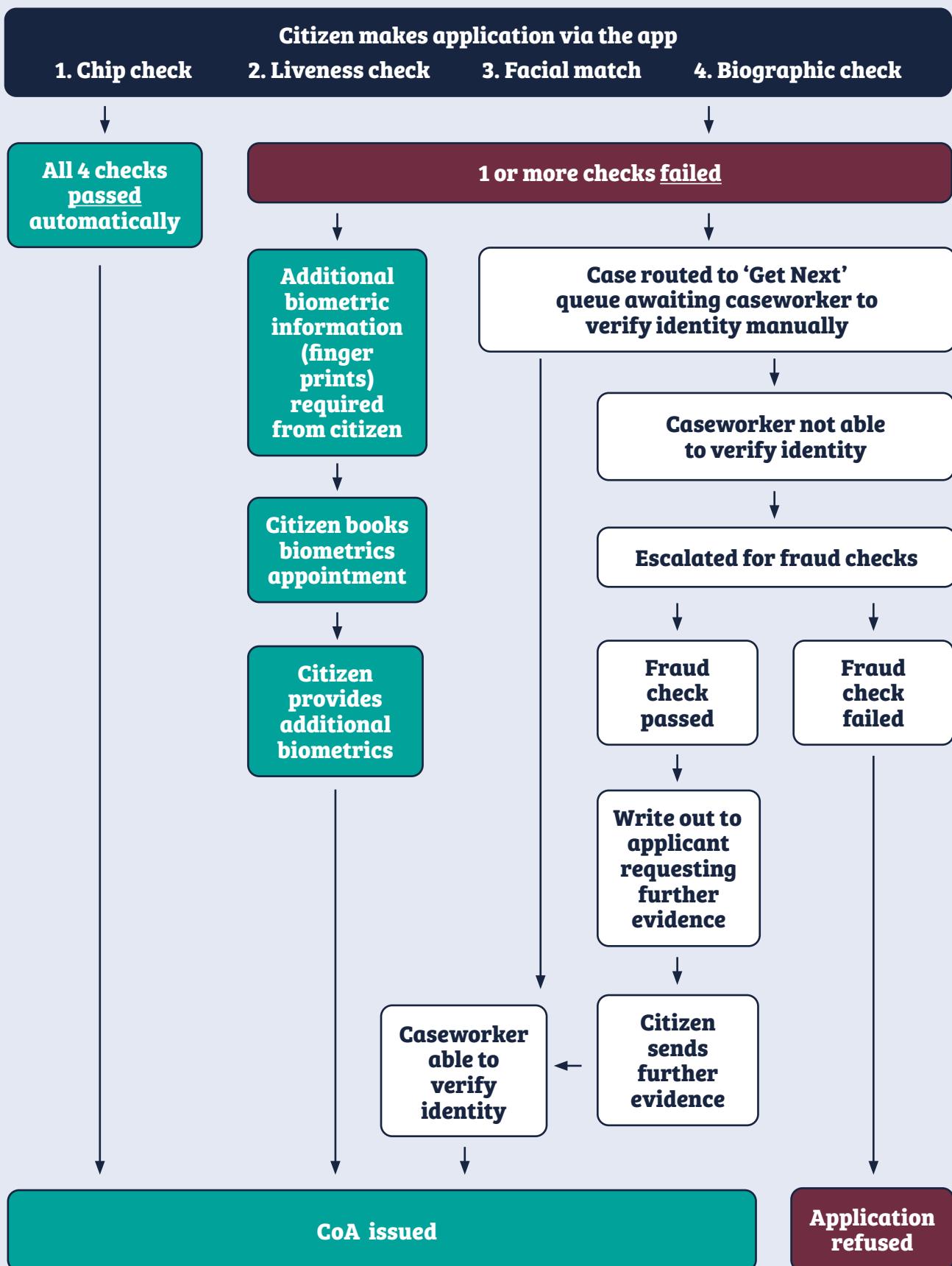
Digital applications

44. The IMA understands that it was intended that the vast majority of applications under the EUSS would be made and processed digitally; as explained above, the Home Office expected that the EUSS would need to cope with high volumes of applications. The digital process flow for EUSS applications is outlined in figure 2 on the next page.

18 The app can be used to complete the identity stage of an application online (www.gov.uk/guidance/using-the-eu-exit-id-document-check-app)

19 www.gov.uk/government/publications/home-office-eu-settlement-scheme-statistics-user-guide/home-office-eu-settlement-scheme-statistics-user-guide

Figure 2: Digital applications process flow June 2021 and June 2022



● No caseworker intervention

○ Caseworker intervention

45. The 'green route' is used to describe an application that is made digitally and does not require any caseworker intervention. This means they have scanned a copy of their chipped passport or biometric residency document, provided a photograph and have passed a 'liveness check' of their face. A 'liveness check' verifies genuine presence and confirms that a real person is using the app.²⁰
46. To pass through the digital-only route without the need for manual checks there are four stages an application must go through: (i) checking the 'selfie' image uploaded by the applicant matches the image in the chip in the identity document; (ii) checking a 'liveness' scan also matches that image; (iii) a chip check confirming the validity of the identity document; and (iv) a biographical check confirming the information on the relevant page of the document matches what is contained in the chip. All four stages need to be successfully completed without the need for caseworker intervention in order for the validation process to be completed automatically and for a CoA to be issued on an automated basis. Where a stage is not completed automatically (e.g. because the app's facial recognition software concludes that the 'selfie' provided does not match the image in the chip in the identity document), or where a stage is skipped by the applicant (as (ii) can be where there is a risk of triggering a photosensitive medical condition, and (iii) can be if the applicant cannot complete it after several attempts, perhaps because the chip is damaged), manual caseworker intervention will be required to progress the validation process, generally by asking the applicant to post the identity document to the Home Office.
47. In some cases, an applicant applying via the app may be asked to provide their identity document by post, for example if the chip in a passport is damaged. However, the Home Office reports that the app is successful in reading 90% of chipped identity documents that are provided via the app.

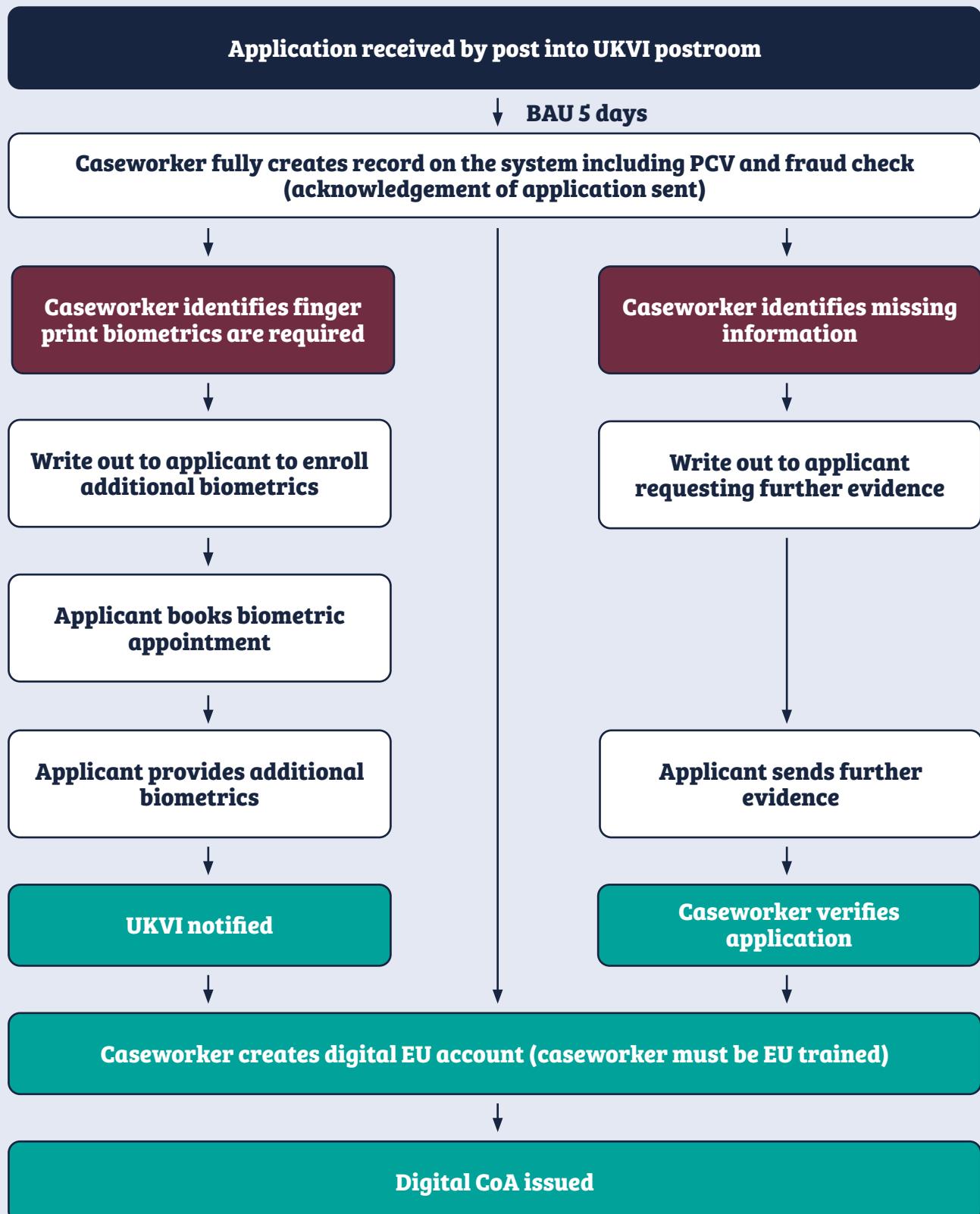
20 www.assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1058226/EUSS_DPIA_Final_1.0.pdf

48. The digital-only route is not accessible to all applicants. During our **case sampling exercise**, the IMA noted that some digital applications in respect of children could not proceed via the digital only route, and the application would need to be re-routed to a caseworker for further manual checks. The Home Office explained that it was a policy decision not to allow children under 10 years old to complete the liveness check. This is because there are challenges in capturing the necessary images of children to satisfy an automated check. The Home Office re-routes all applications in respect of children aged ten or under. The digital only route is also not accessible to any applicant who is required to enrol fingerprints (additional biometric information), which accounts for approximately 3% of applications. This affects all **third country nationals** without a BRC who are applying to the EUSS within the UK.
49. It is therefore clear that, in practice, not all applications can proceed via the preferred digital-only route. We estimate that 28% [1,720,714] of digital EUSS applications have required manual processing.

Paper applications

50. For applications made on paper which are posted in or submitted via e-mail (the latter was allowed for a short period in June 2021), a photograph must be provided in order (a) to provide a means by which to cross check the applicant's identity, and (b) to provide an image for the residency status issued under the EUSS. See figure 3 on the next page.

Figure 3: Paper applications process flow June 2022



51. A caseworker physically checks the documents to ensure that the identity document and photograph match. A caseworker also conducts a fraud and **Person-Centric View (PCV) check** to verify the applicant's information and to flag any known security alerts.
52. Once the required information has been provided, an online **External User Authentication (EUA)** profile is created, which hosts the digital CoA and eventually the citizen's digital residency status. A caseworker must have completed a 12-week training course and have received their licence before they are able to set up an online EUA profile.
53. In relation to paper applications, a digital CoA could not be issued until a EUA profile had been set up. Prior to July 2021, the creation of an online EUA profile was not done until the **eligibility stage**. This means that, before the 30 June 2021 deadline, digital CoAs were not being issued until an application had passed validation and was being considered at the later **eligibility stage**. However, at this time (before the end of the **grace period**) **citizens** could exercise their rights by other means. See figure 4 on the next page.

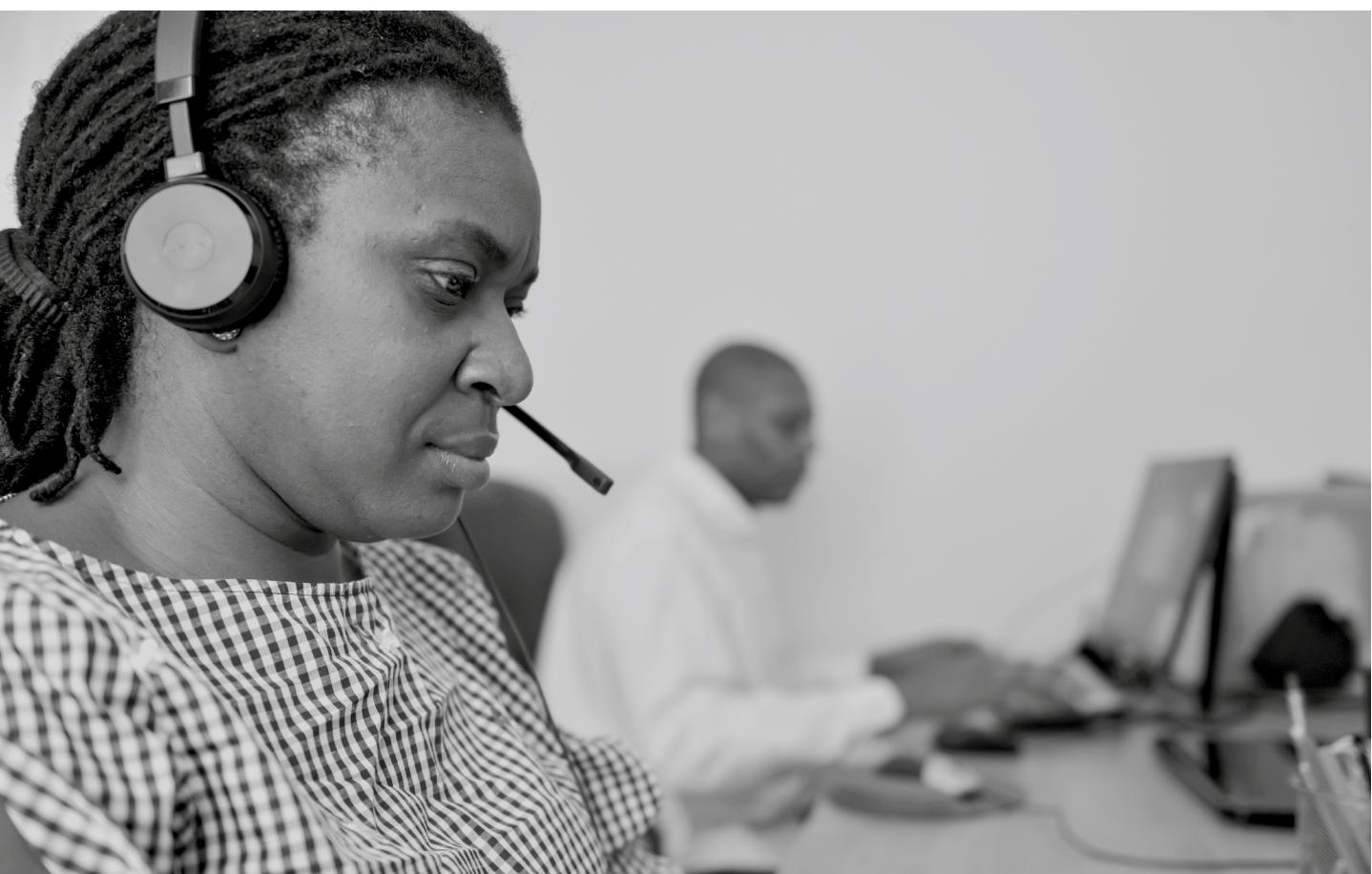
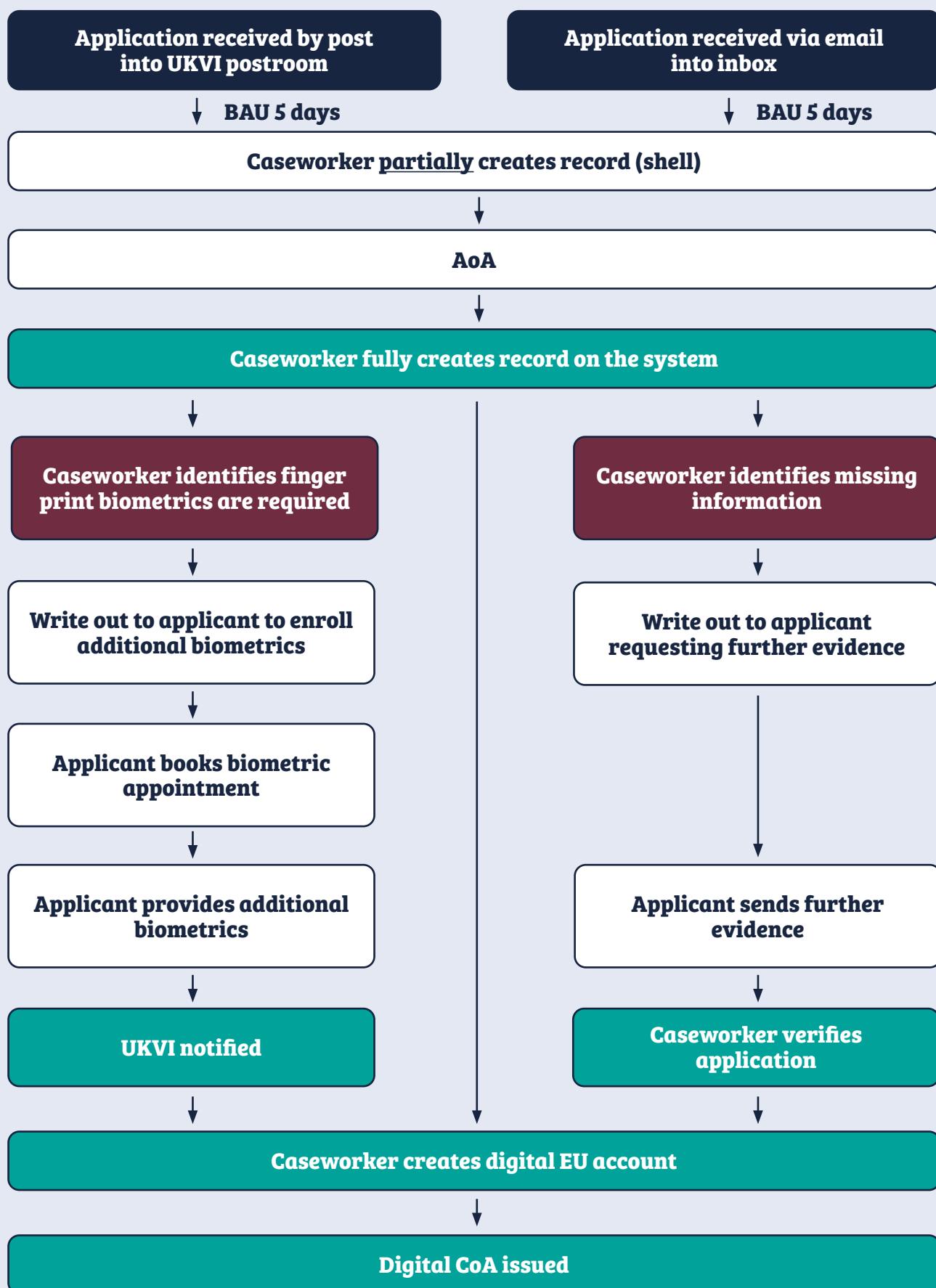


Figure 4: Paper applications process flow in June 2021



How are applications validated?

54. Applications are validated in one of two ways:
 - a. A digital application which does not require any manual processing by a caseworker will have a CoA issued automatically and immediately.
 - b. All other applications (whether paper or digital) require manual processing, such as a caseworker review, before a CoA is issued.
55. A representative from the Home Office told us that, in relation to paper applications and those digital applications to which the manual processing of physical documents is required, there will inevitably be some degree of 'bureaucracy'. Therefore, in this context a representative of the Home Office told us they consider that 'immediately' means 'as soon as is reasonably practicable'. We accept that there will naturally be some degree of time necessary to undertake the relevant administrative tasks involved when manually validating applications. However, this does not provide an open-ended period of time within which validation can occur. Validation must be carried out with the requirement to issue a CoA immediately in mind. It is also the view of the IMA that once an application is validated a CoA must be issued immediately.
56. A digital CoA is accessed via a UKVI account. The EUA is the platform on which the account details are stored. Applicants will also receive a CoA either as an attachment to an e-mail or via post (depending on whether the applicant applied online or using a paper application form).
57. For online applicants, an online EUA profile is created automatically when an application is made. For paper route applicants, the online EUA profile is created manually by a caseworker after successful validation. The CoA is available to view online and can be shared with third parties by generating a **share code**.
58. To access their digital CoA, paper applicants can log in to the Government's View and Prove²¹ platform using their ID and the email/ phone number submitted with their application. If they did not provide those details, they are sent a 'status access letter' which provides instructions for them to contact UKVI or support with gaining access.

21 www.gov.uk/view-prove-immigration-status

59. The IMA notes that for late applicants who are required to demonstrate reasonable grounds for missing the deadline by which an EUSS application must be made, a CoA is issued before the assessment of whether there are reasonable grounds is undertaken.

Fingerprints

60. Some **third country nationals** are required by the UK authorities to present a BRC to prove their status when entering the UK²². Once in the UK, a **share code**²³ can be used to prove right to work or rent via the **View and Prove** system.

61. For **third country nationals** who do not already have a BRC, additional information must be provided when applying to the EUSS within the UK. Additional information includes fingerprints, photographs and a signature which must be provided before an application is considered valid and a CoA is issued (unless the applicant is exempt).²⁴ The Home Office told us that the process for providing such information is as follows:

- a. Citizen instructed to provide additional information including fingerprints for their EUSS application.
- b. Citizen makes and attends an appointment (with UK Visa and Citizenship Application Services)²⁵ and provides the following:
 - i. Facial image,
 - ii. 10 fingerprint scans,
 - iii. A signature,
- c. UKVCAS submit the information to the Home Office to complete the **validity stage**.

22 See link for more details: www.gov.uk/government/publications/entering-the-uk-under-the-eu-settlement-scheme-and-eu-settlement-scheme-family-permit/if-you're-not-from-the-eu-iceland-liechtenstein-norway-or-switzerland

23 www.gov.uk/view-prove-immigration-status

24 Applicants might be exempt from providing additional fingerprints due to a physical disability or their age i.e. they are under 5 years old.

25 www.gov.uk/ukvcas

62. As a result of the first COVID-19 lockdown, UKVCAS premises were closed at the end of March 2020. UKVCAS initiated a phased return to service from 1 June 2020 in line with COVID-19 safe operating measures. Full resumption of services took place from 24 September 2020.
63. Despite some reports that there was limited availability of appointments to provide the additional necessary information, when we checked in December 2022 there was sufficient availability of appointments.²⁶ The Home Office told us that in December 2022 the number of available appointments exceeded the number of registered applicants in need of one.
64. We considered whether the requirement for **third country nationals** without a BRC applying to the EUSS within the UK to provide additional information as part of the application process, and specifically before a CoA was issued, was compatible with **the Agreements**.
65. The Home Office indicated that fingerprints are required for issuing a BRC to EUSS applicants and to confirm identity. They are collected for a very small number of applicants who are **third country nationals** without a BRC applying to the EUSS within the UK (approximately 3%) at an appointment arranged by the citizen.
66. A valid BRC will, together with a valid passport, allow applicants who require a visa to travel whilst the outcome on their valid EUSS application is pending.
67. The Home Office further explained that at the **validity stage**, fingerprints are checked against immigration and law enforcement databases. This helps confirm the individual's identity for the purpose of validating their application and to filter out fraudulent applications.
68. We are also told by the Home Office that the biometrics checks at the **validity stage** are for the purpose of ensuring the document is valid and that the person applying has rightful ownership of that document (i.e. anti-fraud measure). Any information that relates to the suitability of the applicant is not considered until a later stage (i.e. after a CoA has been issued).

26 www.gov.uk/government/publications/key-performance-indicators-kpis-for-governments-most-important-contracts

Compliance with the Agreements

69. As noted at paragraphs 17-19, **the Agreements** provide that the identity of applicants shall be verified through the presentation of valid identity documents (passport or national identity card for EU and EEA EFTA **citizens**; passport for family members who are not EU or EEA EFTA citizens). **The Agreements** also provide for safeguards against fraud and abuse (see also paragraph 19). The IMA considers that the Home Office requirement to provide fingerprints for the purpose of validating a person's identity is consistent with those provisions.
70. We conclude that the decision to require fingerprints for the purpose of validating the identity of a specific category of applicants does not mean that the UK has failed to comply with **the Agreements** and the Home Office in making this decision to require fingerprints has not acted in a way that prevents **citizens** from exercising their rights.
71. As noted at paragraph 40, a policy which is compatible with **the Agreements** must also be implemented in a manner that is consistent with **the Agreements**. The IMA did not identify evidence to suggest that the practical arrangements for collecting biometrics caused delays in the issuing of a CoA. As noted at paragraph 63, the IMA found that in December 2022 there were sufficient appointments available to allow applicants to provide their fingerprints in a timely manner. For this reason, the IMA concludes that the arrangements for collecting fingerprints did not result in the UK failing to comply with **the Agreements** and the Home Office in implementing those arrangements and ensuring sufficient appointments has not acted in a way that prevents **citizens** from exercising their rights.

Caseworker queues

72. EUSS applications that require caseworker intervention are processed in chronological order by reference to date of receipt. Caseworker queues include applications that are either (a) new and have not yet been reviewed, or (b) awaiting review by a caseworker following a contact attempt with the applicant to request further information. A further breakdown of either was not available.
73. For paper applications, caseworker queues are physical shelves that are used to store applications and supporting documentation until processed by a caseworker and uploaded onto the system. Applications are date stamped when they are received into the post room which enables them to be processed in date order.
74. For digital applications, queue management and case allocation are automated chronologically. Applications which have an outstanding action, such as those which require further identity information, are put on hold for 14 days until the action is complete or the period expires, at which point the case falls into a subsequent queue.
75. During discussions with the Home Office, it was suggested that when application numbers are at a manageable volume, caseworkers can review them and, for paper applications, fully create them (i.e. upload them on to the system) within a maximum of five working days (although this is not recognised as a formal service standard). Caseworkers need to review applications in order to progress them for the purpose of validation, which includes processing supporting documentation received into the post room and progressing an application once the necessary fingerprints have been provided.
76. If this target is always met and applied to all instances where a caseworker review is required, then valid applications will be issued with a CoA within five working days of the application being received and those who are required to provide further information will also receive their CoA within those five working days of the provision of that information.

Part 3: The problems that were identified

In this section of the report, we outline the problems that we identified during our inquiry that affected the way that CoAs were issued, both at the June 2021 deadline and thereafter. Some of these problems were limited to the review of paper applications and some problems were applicable to both paper applications and digital applications which required manual intervention.

77. In October 2022, as part of the evidence-gathering phase of the Inquiry, the IMA:
 - a. conducted a survey of **citizens**,
 - b. sought evidence from stakeholders,
 - c. conducted interviews with Home Office officials, and
 - d. reviewed 243 randomly selected EUSS applications made to the Home Office from two pre-determined months.²⁷ Of these, 161 EUSS applications were made in June 2021, during a significant peak of applications. The remainder were applications made in June 2022 (**case sampling exercise**).
78. The IMA found that for digital applications which were submitted and required no manual intervention from a Home Office caseworker, there was no delay in the issuance of a CoA. A CoA is issued instantaneously for such digital applications.

27 Further detail about this exercise can be found in the methodology section of this report in the Annex section of this report. Given the sample size relative to the number of EUSS applications that have been made overall, it is not possible to draw any statistical conclusions from the cases that were reviewed. Instead, the examples are used to form a picture of how the EUSS was performing a year apart.

79. However, for EUSS applications which required the involvement of a caseworker, namely paper applications and digital applications which required manual intervention, there were delays between the time an EUSS application was submitted to the Home Office and a CoA was issued.
80. As part of the survey conducted by the IMA, the IMA received responses from **citizens** who explained delays they had experienced in receiving their CoA:

'I could not understand why there had been such a delay, especially when you consider how important a CoA is to protect citizens' rights'.

(Citizen A waited 11 weeks for a CoA in June 2021)

'I began telephoning the SRC (I also sent a number of emails) to find out what was going on, but it was difficult to get through to anyone. When I did, I was on hold for over an hour, several times up to 2 hours or longer. When I spoke to individuals their response was "there is no update on the application", "we can't provide a timeframe for a decision", "we are so overworked", "we cannot update you". I tried on 23rd July and 10th August'.

(Citizen B waited 3 months for their CoA because the automated checks had failed to return a positive match for the identity provided)

81. The IMA found that the delays outlined in these responses were reflected in the IMA's **case sampling exercise**. Taking the example of digital applications that were made in June 2021 and which related to children, out of 20 reviewed, eleven dropped out of the automated system and therefore required a caseworker review. For these eleven applications, there was a delay of between 46 to 107 calendar days before a caseworker review took place, and therefore before a CoA could be issued. Had the application proceeded via the automated digital route online, a CoA would have been issued the same day that the application was made.
82. The IMA identified three main factors that had a significant impact on the time that it took to issue CoAs in June 2021: the available numbers of caseworkers (relative to demand), caseworker training and paper application case creation.

The available numbers of caseworkers

83. According to the Home Office, the ability of caseworkers to progress cases at the **validity stage** between June 2021 and April 2022 was significantly limited for two reasons: the volume of applications received and the impact of COVID-19.
84. When we asked the Home Office about the reasons for a delay in issuing a CoA, they told us that in respect of paper applications, the issue of delays was:

'.... due to a very particular combination of factors (a very high volume of applications received in a short period, ahead of a deadline affecting most of those yet to apply to the scheme and when working arrangements were constrained by COVID-19 related restrictions).'

85. The IMA found there to be delays which showed long wait times for caseworker reviews at the **validity stage** for both paper applications, and digital applications that required caseworker intervention. This was reflected in the cases the IMA reviewed as part of its case sampling.

Case study 1

A digital application made on behalf of a child (under 5).

The age of the applicant meant that automated validation checks could not be completed and therefore a caseworker review was required.

The application was submitted digitally at the end of June 2021. The application was not reviewed for 82 working days. The application was reviewed in mid-October 2021, at which point the application was deemed valid and a CoA was issued on the same day.

86. The Home Office told us that there were 1,500 full-time equivalent staff allocated to the EUSS, which was more than the number expected when forecasts were undertaken in July 2019 (1,262). The Home Office told us that temporary additional resource was drafted in to respond to the demand on the scheme following the June 2021 deadline.

87. The Home Office expected approximately 3.5 to 4.1 million applications. The true scale was almost double this, with 6,699,190 applications to the EUSS as of 30 June 2022.²⁸

²⁸ www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-june-2022/eu-settlement-scheme-quarterly-statistics-june-2022

88. In the month of June 2021, a total of 438,000²⁹ applications were received; this was more than the total number of applications received in the three preceding months combined. This far exceeded expectations; in June 2018 the baseline planning scenario was for an estimated 95,000 applications in June 2021. At the time these scenarios were produced, there were significant uncertainties including the timeline for the UK's departure from the EU. Further iterations of scenario-based planning were produced, and, in March 2021, the baseline planning scenario was updated to 170,800 applications for June 2021. This was again reviewed mid-way through the month of June 2021, when the total for that month was expected to be 307,800 applications.
89. As of June 2021, there were 355 staff processing EUSS cases at the **validity stage**, with an additional 38 loaned until 13 August 2021. Caseworkers are expected to deal with, on average 30, cases per day. Accordingly, 393 caseworkers would be expected to deal with 11,790 cases per day, equating to 259,380 over the 22 working days in June 2021 (equivalent to less than 60% of the applications made during that month).
90. Also in June 2021, the Home Office explained that their post room received an estimated 60,000 postal packages associated with the paper application route, which they explained equated to roughly two years' worth of intake in a single month. From the evidence provided to the IMA, the volume of EUSS applications that were received, especially around the EUSS deadline, appears to have overwhelmed the system.
91. The COVID-19 global pandemic further impacted the situation, because restrictions meant that the number of Home Office staff physically allowed into the office to manually process applications around the time of the deadline was significantly reduced. The Home Office told us that in addition to receiving a very high number of packages into the postal room, the number of workers who were allowed in to process packages at the end of June 2021 had been reduced from the usual 33 to just 11. This meant there was only a third of the usual resource available to process a far higher than expected workload, as reflected in the cases we analysed:

29 www.gov.uk/government/statistics/eu-settlement-scheme-quarterly-statistics-june-2021

Case study 2

In June 2021, the applicant submitted a digital application. However, the automated checks failed to successfully validate the identity document (the chip check failed) meaning the applicant was required to post it into the Home Office. At the end of June 2021, records show that the Home Office received the applicant's identity document. However, on two subsequent occasions (in June and July), the system continued to send automatic reminders to the applicant asking them to send the required document (despite it having already been received). On 25 July 2021, 25 working days after the Home Office received the applicant's identity document, a caseworker scanned it into the system and assessed the application. It was deemed valid, and a CoA was issued the same day.

92. We were also told that, owing to the volume of applicants who did not have the necessary identity documents, more paper applications were made than expected. One factor that contributed to this was consulates in the UK being closed due to COVID-19, with the result being that they could not issue new identity documents. Affected applicants therefore had to apply with alternative identity documents, meaning a paper application was their only option. As a response, the Home Office took the decision in June 2021 to temporarily allow applications to be submitted via email. In total, 22,000 applications were received via email, which caused the email system to crash. The provision to submit applications via e-mail ended on 1 July 2021.
93. We also noted that, when additional information was received through the postal system, it was not immediately linked to the digital system, which meant that application statuses were not always fully up to date. For example, in some of the cases that we reviewed in 2022, there had been a delay of 14 calendar days between identity documents being received and then being logged on the system. This meant that the information available to call handlers at the **Settlement Resolution Centre (SRC)** was not always up to date when applicants made contact seeking updates on the progress of their applications. The availability of caseworkers therefore affected the timing of updates to systems.

94. The IMA acknowledges that, despite the challenges faced by the Home Office around the time of the EUSS deadline, the scheme has successfully processed more than 6.7 million EUSS applications to date. The IMA recognises the resilience shown by staff at the Home Office when responding to the challenges that they faced.
95. The Home Office did explain that it took a decision to temporarily amend their policy on how applicants were able to evidence their rights. This temporary policy change concerned the status of an **Acknowledgement of Application (AoA)**.
96. An AoA is issued to all applicants before their application is validated and a CoA is issued. An AoA is described by the Home Office as a 'receipt' and confirms that an application has been successfully received to the scheme. Originally, an AoA was not intended to be a means of evidencing any rights whilst an application was pending.
97. Up until the end of the **grace period** (30 June 2021), it was not necessary for an applicant to the EUSS to evidence his or her rights under **the Agreements**.
98. The end of the **grace period**, however, marked a significant moment for EUSS applicants, especially for those with pending decisions on their application who had not received a CoA. From 1 July 2021, applicants under the EUSS were likely to be required to evidence their rights and, without a CoA, they could not do so.
99. In response to the volume of applications that the Home Office were dealing with, and to ensure those who had made an application before the 30 June 2021 deadline would be able to evidence their rights, the Home Office temporarily amended their policy so that an AoA could be used as evidence that an in-time application had been made (an **enhanced Acknowledgement of Application**). All such applicants were permitted to use the acknowledgment email or letter (alongside verification by the Home Office checking service) to prove that they had made an in-time application and to evidence their right to work and to rent property pending validation of their application and the issuing of a CoA.
100. The Home Office chose to exercise further flexibility by treating as in-time an online application that was received by 09:00 on 1 July 2021 or a paper application that was received by 7 July 2021 as 'in-time', regardless of whether, at that stage, the application met the validity requirements.

101. While this policy decision did mean that **in-time applicants** were able to rely on their AoA to evidence their right to work and to rent property, there were significant limitations to the protection afforded by an AoA. Firstly, an AoA could not be relied upon other than to demonstrate a right to work or rent property. It did not go beyond that to demonstrate a right to enjoy the other rights set out in **the Agreements**. Secondly, the decision was limited to **in-time applicants**. An AoA issued to a late applicant could not be used as evidence of the entitlement to enjoy rights.
102. This reflected the Home Office position on 30 June 2021 that late applicants were not entitled to any rights under **the Agreements** while their application was pending. Following representations by the IMA³⁰ and others, the Government took the decision on 6th August 2021 to grant late applicants with rights under **the Agreements** while their application was pending.³¹ However, despite the change in approach in relation to late applicants, the 'pragmatic' approach described above was not extended to late applicants.
103. When we asked the Home Office why, in this respect, late applicants were not afforded the same protection as **in-time applicants**. We were told in correspondence to the IMA that:

'...these arrangements – made before the policy was changed to apply Article 18(3) protection to late applicants and joining family members as well as in-time applicants – were a temporary measure given the exceptional circumstances in the run-up to the 30 June 2021 deadline and the importance after the end of the grace period of those individuals being able to show that they had met that deadline'.

30 www.ima-citizensrights.org.uk/news_events/home-office-asked-to-clarify-the-rights-of-eu-citizens-applying-late-to-the-eu-settlement-scheme/

31 www.gov.uk/government/news/temporary-protection-for-more-applicants-to-the-settlement-scheme

104. In summary, the policy to enable an AoA to be used to evidence the right to work and right to rent property for **in-time applicants** was not extended to late applicants following the announcement on 6 August 2021 to provide rights to late applicants while their applications were awaiting a decision. The AoA provided no protection for late applicants.
105. The existence of an AoA did not therefore entirely mitigate the impact of delay caused by a limited number of caseworkers being available.

Caseworker training

106. For digital applications, whether they require manual intervention or not, once identity is confirmed the application is validated and a CoA is issued immediately. For paper applications once a profile is fully created and validated, a physical CoA is issued immediately by post. After 30th June 2021, the Home Office also needed to enable landlords and employers' digital access to CoA; to enable this, an online EUA profile needed to be manually created by a caseworker before a CoA could be accessed. Access to digital CoAs was available from November 2021. The manual creation of an online EUA profile by a caseworker is part of the mandatory 12-week caseworker training course
107. During our review of paper applications, it was noted that a CoA was not always issued immediately, even where an application had been validated. For example, of a random sample of 26 paper applications that were made in June 2021, in 15 cases there was a delay in issuing a CoA after the application had been validated, with the delays ranging from 2 calendar days to 132 calendar days.

Case study 3

Records show that this paper application was received by the Home Office at the end of June 2021. Twelve working days later, the case was partially created by a caseworker and an AoA was issued. The case then sat in a queue until it was fully created and deemed valid in September 2021. However, a CoA was not issued to the applicant until the end of March 2022 which was 132 working days after it had been validated.

108. The explanation provided by the Home Office was that there was an insufficient number of caseworkers who had been trained to create online EUA profiles. In June 2021, there was only one caseworker trained to create online EUA profiles (with a further three in training). By June 2022, the number had increased to 53.
109. This was because, prior to the 30 June 2021 deadline, online EUA profiles were not created at the **validity stage** but were instead created at the **eligibility stage**. As a result, most of the paper applications that were valid were placed in a queue, and no digital CoA would be issued until the **eligibility stage**.
110. The Home Office told us that, prior to June 2021, caseworkers were only able to complete the necessary fraud and PCV checks (which are required before a CoA can be issued) at the **eligibility stage**. This was another barrier to issuing digital CoAs immediately because these checks needed to be complete before a CoA could be issued.
111. Applications were processed in this way from the day the scheme opened until the process was amended, which the Home Office informed the IMA was in June 2021.

Paper application case creation

112. The Home Office says that, in response to the high volume of paper applications, it took what it considered to be a pragmatic decision to register paper applications in two-stages: firstly, applications were provisionally entered onto the Home Office system (referred to as 'partial creation' or the creation of 'shell records') and issued with an AoA; and, secondly, a full entry was created later. The Home Office told us that this meant that applications could more quickly be formally registered on the system and applicants could more quickly be issued with an AoA. As noted at paragraph 99 this meant for **in-time applicants** they were able to rely on their AoA to evidence their right to work and to rent property pending completion of validation checks and a CoA being issued. However, the IMA noted that in some cases, paper applications were still taking more than a month to be provisionally created, see case study 4.

Case study 4

For this applicant, a paper EUSS application was received at the end of June 2021 after which it waited 25 working days before a caseworker partially created it in the system, and an AoA was issued.

113. The Home Office advised the IMA that it only reverted to processing paper applications in the original way (i.e. full case creation only) from April 2022. Therefore, between June 2021 and April 2022, most paper applications were initially only partially entered onto the Home Office system, and therefore a CoA could not be issued in those cases, even if the application was a valid application.

114. The policy for creating this two-stage validation process meant that paper applications would be subject to two queues. This is because the application would first need to wait for caseworker availability for it to be partially created in the system, and then again for it to be fully created (and issued with a CoA if deemed valid).

Compliance with the Agreements

115. Article 18(1)(b) of the Withdrawal Agreement and Article 17(1)(b) of the EEA EFTA Separation Agreement require a CoA to be issued immediately. The use of the word 'immediately' indicates a sense of urgency, and the significance of the CoA cannot be overstated. This reflects the way in which **the Agreements** provide for the rights of those applicants whose application has not yet been determined. Article 18(3) of the Withdrawal Agreement and Article 17(3) of the EEA EFTA Separation Agreement ensure that pending a final decision on an application, an applicant shall enjoy the rights they are entitled to under **the Agreements**. It is the CoA which evidences these pending rights. Without a CoA, an applicant cannot enjoy the rights they are entitled to under **the Agreements**. An applicant would not have the right to remain in the UK, work or enjoy any of the other rights secured by **the Agreements**. Any delay in the issuance of a CoA results in a delay of the enjoyment of those rights.
116. As noted in paragraph 38, the IMA accepts that, in principle, a process to validate the identity of an applicant before a CoA is issued is compatible with **the Agreements**. Article 18(1)(i) of the Withdrawal Agreement and Article 17(1)(i) refer to the identity of applicants being verified through the presentation of a valid passport or national identity card for EU **citizens** and a valid passport for family members who are not EU **citizens**. **The Agreements** also provide for safeguards against fraud, including specifically fraudulent applications. The IMA considers that implementing proportionate safeguards to check the identity of applicants is consistent with the aims of Article 20(3) and (4) of the Withdrawal Agreement and Article 19(3) and (4) of the EEA EFTA Separation Agreement.
117. We also note at paragraph 40 that a decision must also be implemented in a manner that is compatible with **the Agreements**. It would be incompatible with the immediacy requirement for the issuing of a CoA to be delayed, because of the **validity stage**, for a period that is any longer than the period that it is reasonably necessary for a properly resourced system to take to validate an application. It is worth highlighting again the importance of the rights at stake – without a CoA, an applicant does not have the rights they are entitled to. Any delay in the process of issuing a CoA will put a pending applicant at risk of not being able to reside in the UK, being able rent property, work or receive free healthcare.

118. Article 5 of **the Agreements** state:

“They³² shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising from this Agreement and shall refrain from any measures which could jeopardise the attainment of the objectives of this Agreement.”

119. The recitals to **the Agreements** reflect those objectives, and include:

“RECOGNISING that it is necessary to provide reciprocal protection for Union citizens and for United Kingdom nationals, as well as their respective family members, where they have exercised free movement rights before a date set in this Agreement, and to ensure that their rights under this Agreement are enforceable and based on the principle of non-discrimination...”

- 120. The UK must therefore ensure that in implementing a **validity stage** it takes all appropriate measures to fulfil the obligation to issue a CoA immediately, to provide protection for **citizens** and to ensure their rights under **the Agreements** are enforceable.
- 121. The exact same principles apply to the process of issuing a CoA once an application has been validated. It would be incompatible with the immediacy requirement for the issuing of a CoA to be delayed, following validation, for a period that is any longer than the period that it is reasonably necessary for a properly resourced system to take to issue a CoA.

32 'They' is a reference to the UK and EU Member States in the Withdrawal Agreement and the UK and EEA EFTA States in the EEA EFTA Separation Agreement.

Digital applications which did not require manual intervention

122. For these applications, the IMA found that CoAs were issued immediately in compliance with **the Agreements** and caused no issue for the enjoyment of rights by **citizens**.

Digital applications which required manual intervention

123. For applications that were received during June 2021 the IMA found there to be delays in the process for validating the identity of applicants. The planning assumptions and policy decisions on the deployment of caseworker resources made by the Home Office underestimated the volume of applications that were received in the period leading up to the deadline of 30 June 2021. This meant an insufficient number of caseworkers (relative to the number of applications that required manual intervention) were available to manually review the digital applications received that required manual intervention. The system was not properly resourced, and this led to applications being left without caseworker review for long periods during the **validity stage**.
124. This was supported by the findings from our **case sampling exercise** as set out in paragraphs 83-114. The cases reviewed demonstrated delays during the **validity stage** of applications received in June 2021. On any view, the periods taken to validate some cases, for example case study one where there was a delay of 82 working days before it was reviewed by a caseworker, are longer than the period that is reasonably necessary for a properly resourced system to validate applications. This was caused by a lack of caseworker availability, and the subsequent delay in the validation arrangements meant CoAs were not being issued immediately. In such cases, the Home Office failed to meet the obligation in Article 18(1)(b) of the Withdrawal Agreement and Article 17(1)(b) of the Separation Agreement to issue a CoA immediately and failed to take all appropriate measures to ensure fulfilment of the obligation to issue a CoA immediately contrary to Article 5 of **the Agreements**.
125. The fact that the Home Office took the decision to allow an AoA to be used to evidence the right to work and the right to rent did not remedy this incompatibility with **the Agreements**. The AoA did not provide the full range of rights set out in **the Agreements** which an applicant was entitled to while their application was being validated and pending receipt of a CoA. An AoA was also limited to **in-time applicants**, leaving all late applicants without any rights while awaiting a CoA.

126. The IMA concludes that the delays in the validation of digital applications which required manual intervention due to an insufficient number of available caseworkers meant that the UK failed to comply with the requirement in **the Agreements** to issue a CoA immediately and the requirement to take all appropriate measures to ensure fulfilment of this obligation. In turn, this led to some **citizens** being prevented from exercising their rights.

Paper applications

127. For paper applications, the IMA found delays at various parts of the process between the submission of a paper application and the issuance of a CoA.

128. Like digital applications which required manual intervention, the IMA found that insufficient caseworker availability impacted on the timely review of paper applications. This led to applications being left without caseworker review for long periods during the **validity stage**. Between June 2021 and April 2022, the Home Office adopted a system to manage the influx of paper applications by partially creating files known as 'shell files/records' (see paragraphs 112-114). This meant that during this period all paper applications were effectively placed on hold. The files were not fully created until a later date resulting in a delay before the validity of these applications was considered in full. A CoA could not be issued until this stage was complete. The impact upon late applicants was significantly greater as late applicants did not receive an enhanced AoA in order to protect any of their rights while awaiting a CoA to be issued.

129. For the same reasons as set out in paragraph 123 in relation to digital applications requiring manual intervention, the delays during the **validity stage** of paper applications caused by a lack of caseworker availability and the decision to delay the full creation of paper applications on the system prevented the immediate issuing of CoAs during June 2021. As a result, CoAs were not being issued immediately and therefore the Home Office failed to meet the obligation in Article 18(1)(b) of the Withdrawal Agreement and Article 17(1)(b) of the Separation Agreement to issue a CoA immediately and failed to take all appropriate measures to ensure fulfilment of the obligation to issue a CoA immediately contrary to Article 5 of **the Agreements**.

130. The fact that the Home Office took the decision to allow an AoA to be used to evidence the right to work and the right to rent did not remedy this incompatibility with **the Agreements**. The AoA did not provide the full range of rights set out in **the Agreements** which an applicant was entitled to while their application was being validated and pending receipt of a CoA.
131. The IMA found that paper applications were subject to an additional delay. Different from digital applications, once validated, a paper application required the manual issuance of a CoA. Only fully trained caseworkers were able to issue CoAs for paper applications. The fact that there was only one such trained caseworker at the **validity stage** in June 2021 caused delays between the validation of an application and issuance of a CoA.
132. Our finding of a delay in the issuance of a CoA for paper applications, caused by a lack of caseworker availability, the partial creation of paper applications on the system and the lack of trained caseworkers, is supported by the findings from our **case sampling exercise** as set out in paragraphs 85-114. The cases reviewed demonstrated delays during the **validity stage** of paper applications received in June 2021 and delays in the time it took to issue a CoA once an application had been validated. On any view, the periods taken to validate some cases and then issue a CoA are longer than the period that is reasonably necessary for a sufficiently resourced system to validate applications and issue a CoA post-validation. These delays are illustrated clearly in case study 3, which saw a paper application:
 - a. Submitted at the end of June 2021,
 - b. Partially created on the system twelve working days later and issued an AoA (but note an AoA did not fulfil the obligations of **the Agreements** – see paragraph 125),
 - c. Sit in a queue for caseworker review until it was picked up and validated in September 2021,
 - d. Sit in a further queue until the end of March 2022 at which point, 132 days after submission of the paper application, a CoA was issued.

133. During these different periods of delay, the applicant remains without a CoA and therefore is unable to enjoy the rights they are entitled to while their application is awaiting determination.
134. These delays were caused by a lack of caseworker availability relative to demand, the decision to partially create applications on the system and the lack of trained caseworkers to enable the issuance of a CoA post-validation. These delays meant CoAs were not being issued immediately. In such cases, the Home Office failed to meet the obligation in Article 18(1)(b) of the Withdrawal Agreement and Article 17(1)(b) of the Separation Agreement to issue a CoA immediately and failed to take all appropriate measures to ensure fulfilment of the obligation to issue a CoA immediately contrary to Article 5 of **the Agreements**.
135. The IMA concludes that the delays in the validation of paper applications due to an insufficient number of available caseworkers and the decision to partially create paper applications on the system meant that the UK failed to comply with the requirement in **the Agreements** to issue a CoA immediately and the requirement to take all appropriate measures to ensure fulfilment of this obligation. In turn, this led to some **citizens** being prevented from exercising their rights.
136. The IMA further concludes that the delays in the issuing of a CoA for paper applications after validation due to a lack of caseworkers trained in issuing a CoA meant that the UK failed to comply with the requirement in **the Agreements** to issue a CoA immediately and the requirement to take all appropriate measures to ensure fulfilment of this obligation. In turn, this led to some **citizens** being prevented from exercising their rights.

Measures taken by the Home Office to address issues

137. The Home Office took steps to mitigate some of the issues associated with validation in three ways:
 - a. changes to the workforce structure,
 - b. expediting cases where necessary, and
 - c. validating an application by other means.

Changes to the workforce structure

138. The EUSS workforce of 1,500 could be moved around the scheme depending on need. The Home Office told us that management data was compiled each day to identify how resource should be allocated. This management data breaks down the total number of cases at each stage of the EUSS (**validity stage**, **suitability stage**, and **eligibility stage**). There is a further breakdown of cases at the **validity stage**, including those awaiting caseworker review.
139. The IMA notes that the full benefit of this flexible workforce can only be felt if there are enough caseworkers who are adequately trained to deliver what is required at each stage, including the necessary training to create EUA profiles and complete fraud checks at the **validity stage**. However, the IMA saw evidence to indicate that this remained an issue until at least June 2022 (see paragraph 149-150) because some applications endured a further wait for a CoA, despite having been validated.

Expediting cases where necessary

140. In some circumstances, cases pending a review at the **validity stage** can be expedited to speed up the issuing of a CoA. For example, the Home Office told us that if an applicant was in urgent need of a CoA, his or her case could be extracted from the queue and expedited. The Home Office gave the example of an applicant being at risk of losing their home as a situation in which an application might meet the requirement for expedition.
141. The IMA saw examples of cases that were expedited following a complaint to the SRC. In one such example, an applicant complained after waiting four months for their CoA and identity document to be returned. The case file showed that the applicant had made a complaint, which had resulted in the application being expedited. The application was then immediately validated, and the CoA and passport returned the same day.
142. The IMA has, in the course of previous work (not forming part of this Inquiry) noted performance issues with the SRC. We found that the SRC experienced a difficult period around the 30 June 2021 deadline, and experienced significant demand during that period which led to some **citizens** being unable to access the call queue or speak to an agent.³³

33 www.ima-citizensrights.org.uk/outcomes/home-office-settlement-resolution-centre

143. As part of the Inquiry, **citizens** also reported challenges in contacting the SRC and acquiring helpful information. In one such example, Citizen C waited 3 months for their CoA:

'I chased the SRC around 10 times via telephone calls during that period (often nobody would pick up and the call dropped automatically) and sent multiple requests via the SRC online form. The response I received always said the same thing: they are not caseworkers, and they cannot provide an update on my application'

(Citizen C)

144. Accounts provided by **citizens** reflect repeated attempts made by applicants to contact the Home Office in order to get an update on their application and pending CoA. However, the SRC is not generally able to provide updates if an application is waiting for a caseworker review, and it is unable provide an explanation as to why caseworker intervention is required.

145. In summary, it appears that although there was the possibility of having cases expedited, the reality was that **citizens** had difficulty contacting the SRC in order to initiate that process.

Validating an application by other means

146. The Home Office says that a pragmatic decision was taken to implement new rules if an issue regarding missing identification documents was identified. For example, if a child's passport was not available but there was a linked application from a parent which confirmed nationality, the child's application could be validated even if no identification document for the child had been submitted with the application.
147. The IMA identified examples of this in practice during our **case sampling exercise**. We observed that applications made in respect of children were validated, even if information confirming their identity was missing. The case chronologies which were reviewed (as outlined in the methodology section) confirmed that, in order to complete validation, the Home Office sought to verify the applicant's nationality through linked applications.
148. In addition, because some **citizens** were unable to obtain necessary identity documents because of the closure of consulates during the pandemic, the Home Office took the decision to accept expired identity documents from applicants who had made paper applications.

Are these problems now resolved?

149. The IMA reviewed 82 digital and paper applications that had been made in June 2022 in order to assess how applications were being processed under what the Home Office deemed 'business as usual' (BAU). Of this sample, 25 cases were identified as giving cause for concern and, following further assessment with the Home Office, indicated problems with:
 - a. CoAs not being issued to paper applicants immediately after validation.

Case study 5

At the end of June 2022, the Home Office received an EUSS paper application. Within 4 working days, the application was deemed valid however a CoA was not issued for another 14 working days.

Case study 6

The record shows that this paper application was received in mid-June 2022. The application was reviewed the same month however there were issues with the identity document that had been provided. At the start of August 2022, the record shows that further checks were completed, and the application was deemed valid, however the CoA was not issued for another 7 working days. The IMA determined that the reason for this delay was operational, i.e. lack of trained staff.

- b. delays in paper and digital applications requiring manual intervention being reviewed by a caseworker (in one case we found a 56-day delay in the issuing of a CoA).

Case study 7

At the end of June 2021, the applicant (a third country national) submitted a digital application. On the same day, they were asked by the Home Office to post their identity document in, which was subsequently received by the Home Office at the beginning of July 2021.

30 days after the identity document was received, a caseworker reviewed it and concluded that it had expired. From the case file, we noted that as the applicant had reportedly lost their BRC, they were required to provide additional biometrics (i.e. fingerprints).

In April 2022, 171 days after it was determined that fingerprints were required, the letter instructing the applicant to provide these was sent.

The case file shows that the applicant provided the necessary additional information at the end of April 2022 but that a CoA was not issued for a further 59 working days.

Case Study 8

At the end of June 2022 this citizen submitted an EUSS digital application for which a manual caseworker review was required (child applicant). The record shows that this review did not take place for a further 19 working days, at which point the application was deemed valid and a CoA was issued.

- c. delays in the processing of biometrics by a caseworker.

Case study 9

A paper application was received on 1 June 2022 and the necessary additional information (i.e., fingerprints) was provided on 27 June 2022. We noted from the case file that it took a further 14 working days for a caseworker to review the application, at which point it was determined to be valid and a CoA was issued.

Case study 10

A paper application was received on 23 June 2022 at which point it was identified that further information (i.e., fingerprints) was required. On 3 August 2022, the file shows that the applicant provided the necessary information, however a CoA was not issued for another 14 working days (23 August 2022).

150. The Home Office explained that, in June 2022, there were ongoing issues with caseworker onboarding and training which sometimes had the effect of delaying the issuing of CoAs to applicants who had made valid paper applications.

Compliance with Agreements

151. We have set out at paragraphs 115-121 the obligations contained in **the Agreements**. That assessment of the obligations contained in **the Agreements** applies also to the IMA's findings in June 2022.
152. The **case sampling exercise** conducted by the IMA in June 2022 found remaining instances of delay in the issuing of a CoA to paper applications and digital applications which required manual intervention because of the **validity stage**. Those instances of delay were for periods longer than the period that it is reasonably necessary for a sufficiently resourced system to take to validate an application and, for paper applications only, to issue a CoA following validation. On any view, the time taken to validate and issue a CoA in those case studies above (case studies 5-10) is longer than the period that it is reasonably necessary for a sufficiently resourced system to take to validate an application and in the case of paper applications to subsequently issue a CoA. As in June 2021, the IMA consider the primary cause of these ongoing delays in June 2022 was the continued lack of caseworker availability with applications being subject to long periods of inactivity while awaiting caseworker review. The continuation of these delays by June 2022 means that the IMA cannot be assured that CoAs were being issued immediately and therefore cannot be assured that the incompatibility with **the Agreements** occurring in June 2021 (see paragraphs 123 – 136) had been fully rectified.
153. The IMA concludes that the continued delays in issuing CoAs in June 2022 in the:
 - a. validation of both paper applications and digital applications which require manual intervention, caused by an insufficient number of available caseworkers, and
 - b. the issuance of CoAs in respect of paper applications following validation, caused by a lack of trained caseworkers, meant that the UK failed to comply with the obligation in **the Agreements** to issue a CoA immediately and failed to take all appropriate measures to ensure fulfilment of this obligation. In turn, this led to some **citizens** being prevented from exercising their rights.

Part 4: The scale of the problems

How does the Home Office monitor the issuing of CoAs?

154. The Home Office does not monitor the issuing of CoAs. This means that there is no data regarding the time that EUSS applications take to pass through the **validity stage** or the time that it takes for CoAs to be issued once an application has been validated. Instead, the Home Office explained that they keep under review the work in progress (WIP) i.e. the number of cases that are awaiting completion at each stage.
155. Despite the lack of formal service standards at the **validity stage** (see paragraph 75), the Home Office did detail three mechanisms by which performance is monitored. These are: the digital application system, management information and governance (the EUSS Board).



The digital application system

156. The digital nature of the EUSS, according to the Home Office, is designed to ensure that the process is 'swift and smooth' for validating applications. They say this has enabled the vast majority – over 90% – of '**completed app sessions**³⁴ to have their identity document successfully checked by the EU Exit: ID Document Check app. Therefore, the applicant was not required to post their identity document to the Home Office for verification.³⁵
157. The Home Office also told the IMA that, of applicants who were able to verify their identity document via the app, 86% went on to complete the **validity stage** (i.e. the photo they uploaded was positively matched to their identity document) without the need for caseworker intervention. If we take a **completed app session** to equate to an application, then this would be a total of 4,441,046 applications or 72% of the total number of EUSS applications for this period (6,145,410) which did not require any caseworker intervention prior to a CoA being issued. However, we note that due to limitations in the data available to us, this calculation is speculative. The true number of applications that succeeded without the need for manual intervention was not made available to us during the course of the inquiry.
158. It is plausible that 1,720,714 EUSS digital applications (28%) required some level of caseworker involvement before a CoA was issued. The Home Office told us that, during planning, it was projected that 21.8% of the total intake would require manual intervention. However, as noted in paragraph 88, during the planning phase the overall number of applications was assumed to be much lower. Whilst the proportion of applications that were in fact subject to manual intervention is not that much greater than the projected proportion (6.2 percentage points greater), in absolute terms the number of applications subject to manual intervention was significantly greater than the projected number (1,720,714 applications compared to 741,200).³⁶ A significant number of applications were therefore likely at risk of being exposed to the limited availability of caseworkers discussed in paragraphs 83-105.

34 "A completed app session is where the applicant has completed all the stages they are able to and progressed to either automated CoA generation, caseworker intervention (such as checking a facial match or where the 'liveness' check was skipped) or the applicant being required to send in their identity document for verification. The app concerns the validity stage of the application process and therefore a completed app session does not necessarily mean that the applicant then went on to complete an EUSS application." (Home Office letter to the IMA dated 9th December 2022).

35 1 June 2019 to 27 October 2022

36 Based on assumed 21.8% of the planning assumption of total of 3.4m applications (see paragraph 119 of this report).

Management Information

159. The Home Office say that, although they do not routinely collate or publish statistics in relation to CoAs, management data is compiled daily for monitoring purposes, in order to plan interventions and decide how resources should be allocated to allow for timely case progression. Monitoring data was provided to the IMA and is summarised below.
160. The monitoring data compiled by the Home Office is limited to a) the total number of applications awaiting a CoA, and b) the associated reasons, i.e. awaiting caseworker review. Whilst this monitoring data is helpful for reflecting scale and volume of applications at the **validity stage**, it does not reflect how long an applicant may be waiting for a CoA, or any breakdown of any length of time an application has been at any stage in the process, such as awaiting a caseworker review. The Home Office confirmed that the information that was provided to the IMA is not capable of further breakdown.
161. In the absence of data regarding the time that it takes to validate and issue a CoA post-validation, it is difficult to see how the Home Office can accurately assess how long applicants may wait before receiving a CoA. The Home Office is therefore unable to assess to what extent it is issuing CoAs immediately and therefore whether it is fulfilling that obligation in **the Agreements**. It also means that the Home Office would be unable to make informed decisions regarding the level of resource needed, and how to effectively deploy that resource, to meet the obligation to issue a CoA immediately.
162. In Part 3 of this report, at paragraphs 126, 135 & 153, we conclude that the lack of availability of caseworkers proportionate to intake at the **validity stage** and the lack of trained caseworkers' post-validation to issue CoAs to paper applicants has led to delays in the issuing of CoAs to applicants, contrary to the obligation in **the Agreements** to issue a CoA immediately. We also concluded that the decision to partially create paper applications on the system contributed to delays in issuing a CoA for paper applicants (see paragraphs 134). The ability to identify how long applicants are waiting for a CoA, and how that is broken down in each stage of the system, would ensure that any delays are identified. It would also enable the reasons for such delays to be understood, which could include the lack of resource, or trained resource, or decisions which led to more delays. Without this information, the Home Office is unlikely to be able to monitor the extent to which CoAs are issued immediately. Without details of the extent and nature of the delays in issuing CoAs it is more

difficult for the Home Office to take informed decisions to ensure that the system is properly resourced to fulfil the obligations in **the Agreements** to issue a CoA immediately.

163. For these reasons, to ensure the adequate and effective implementation of the requirement in **the Agreements** to issue a CoA immediately, the IMA considers it appropriate to recommend that the Home Office should extract meaningful data from the new system (see paragraph 43). The collection of this data would be for the purposes of monitoring and responding to the time that it is taking to review and validate applications, and to better manage the system of issuing CoAs.
164. This information would better enable the Home Office to identify and understand any delays in the issuing of CoAs. This in turn would allow for more effective deployment of resources or measures to address failures to meet the obligation in **the Agreements** to issue a CoA immediately.

Governance – The EUSS Board

165. The Home Office say that, in lieu of formal service standards for processing applications through the **validity stage** of the EUSS, the monthly EUSS Board enables Ministers and senior Home Office officials to monitor the operation of the EUSS and agree early action in respect of any issues identified. A monitoring dashboard is populated for this purpose, reflecting the number of applications at the **validity stage**.
166. The EUSS Board is the senior governance body which regularly discusses policy or operational issues affecting the scheme.³⁷
167. However, in the absence of relevant monitoring information on the length of time being taken to validate applications and issue CoAs, it is difficult to see how the EUSS Board could have proactively addressed the problems in respect of valid applications not being issued with a CoA and applications experiencing long wait times for caseworker reviews.

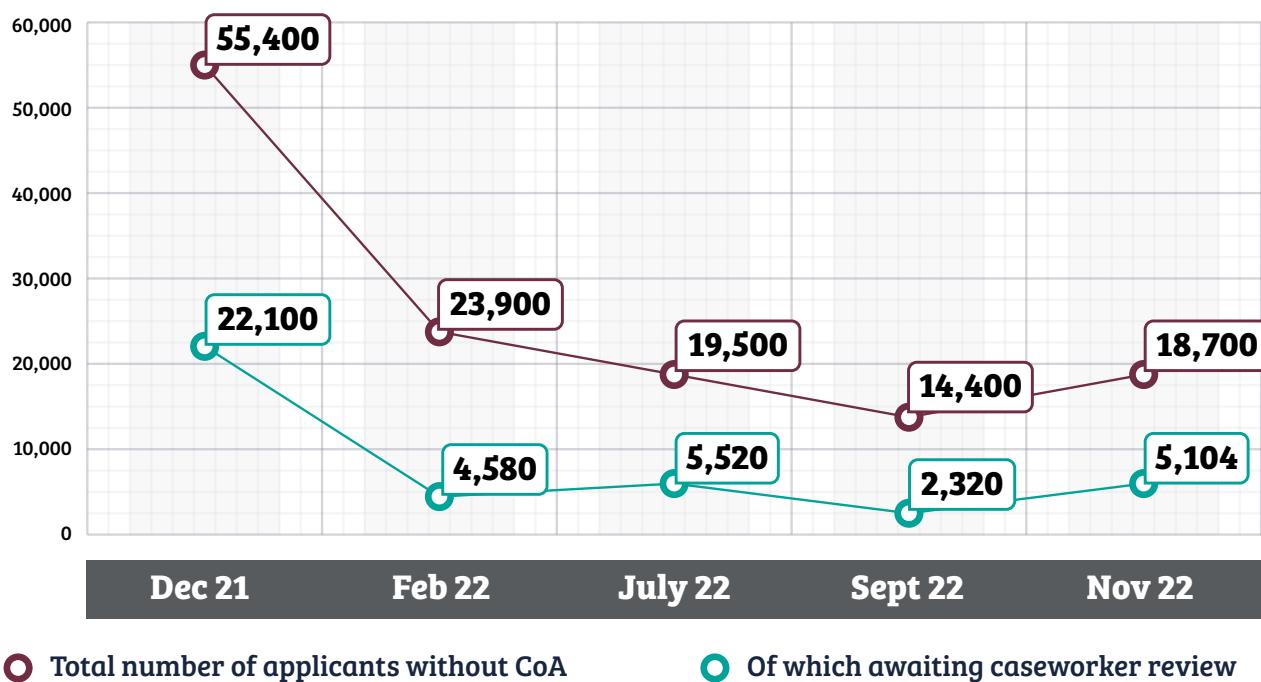
37 www.gov.uk/government/publications/response-to-a-further-inspection-of-the-eu-settlement-scheme/response-to-the-icibis-report-on-the-eu-settlement-scheme-accessible-version

What does management data tell us?

168. The IMA requested management data on the volume of applications in relation to which a CoA had not been issued. The data was received on four occasions in February, July, September, and November 2022.

Digital applications

Graph 1: Number of digital applications without a CoA vs. number of which are awaiting caseworker review



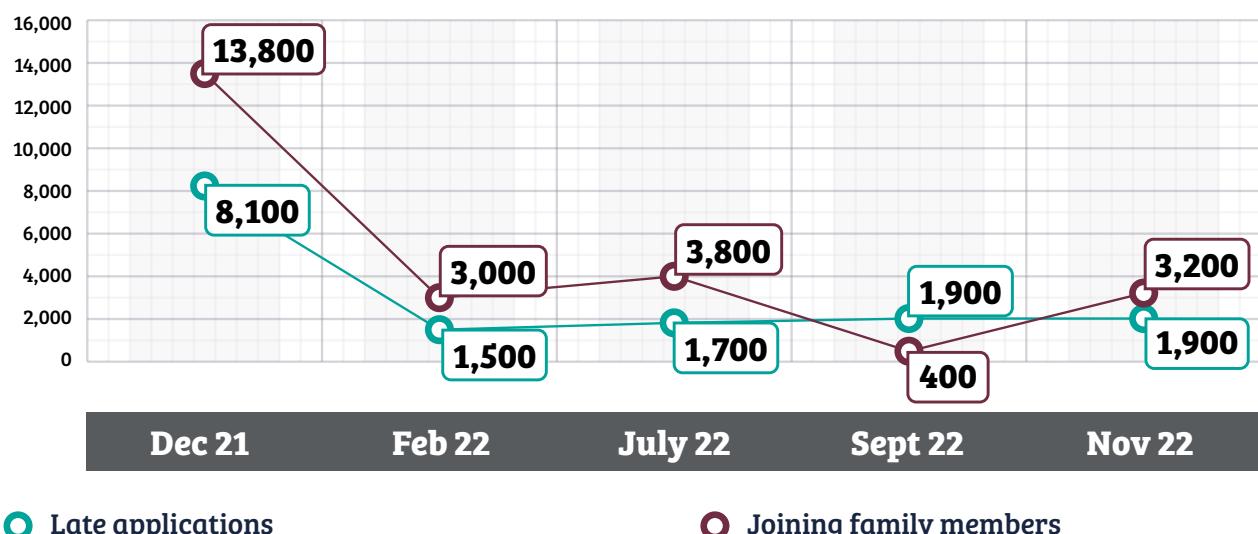
169. For digital applications, there were 55,400 applications without a CoA in December 2021. This figure had decreased by 57% by February 2022, to 23,900, and continued to decline steadily thereafter, until a slight increase occurred between September 2022 and November 2022. By November 2022, there were 18,700 digital applications in respect of which a CoA had not been issued (Graph 1).
170. In Graph 1, the figures for the 'total number of digital applications without a CoA' include applications that are awaiting the provision of further information or other action by the applicant (such as the provision of an identity document to fulfil the validation requirement). Where a delay is caused by user error or a delay in providing further information, then this is beyond the control of the Home Office. In consequence, it is more appropriate to focus on the numbers of applications that are 'awaiting a caseworker review', because the deployment of staff is within the control of the Home Office.
171. Graph 1 shows that digital applications without a CoA waiting for a caseworker review decreased rapidly between December 2021 and February 2022. Since then, it has fluctuated, and by November 2022 the figures stood at approximately 5,104 digital applications pending a caseworker review.

169. For digital applications, there were 55,400 applications without a CoA in December 2021. This figure had decreased by 57% by February 2022, to 23,900, and continued to decline steadily thereafter, until a slight increase occurred between September 2022 and November 2022. By November 2022, there were 18,700 digital applications in respect of which a CoA had not been issued (Graph 1).
170. In Graph 1, the figures for the 'total number of digital applications without a CoA' include applications that are awaiting the provision of further information or other action by the applicant (such as the provision of an identity document to fulfil the validation requirement). Where a delay is caused by user error or a delay in providing further information, then this is beyond the control of the Home Office. In consequence, it is more appropriate to focus on the numbers of applications that are 'awaiting a caseworker review', because the deployment of staff is within the control of the Home Office.

171. Graph 1 shows that digital applications without a CoA waiting for a caseworker review decreased rapidly between December 2021 and February 2022. Since then, it has fluctuated, and by November 2022 the figures stood at approximately 5,104 digital applications pending a caseworker review.

172. Graph 2 shows that, for late applications and applications made by joining family members, the number without a CoA awaiting a caseworker review has remained consistent since February 2022. By contrast, numbers for joining family members showed an increase between September 2022 and November 2022. The IMA shared this observation with the Home Office in November 2022, and the Home Office told us that where a spike in intake occurs, this can have a knock-on impact on the number and type of cases at each stage. The IMA accept that although the data shows a spike in cases during these months, it does not reflect the age of cases within this group.

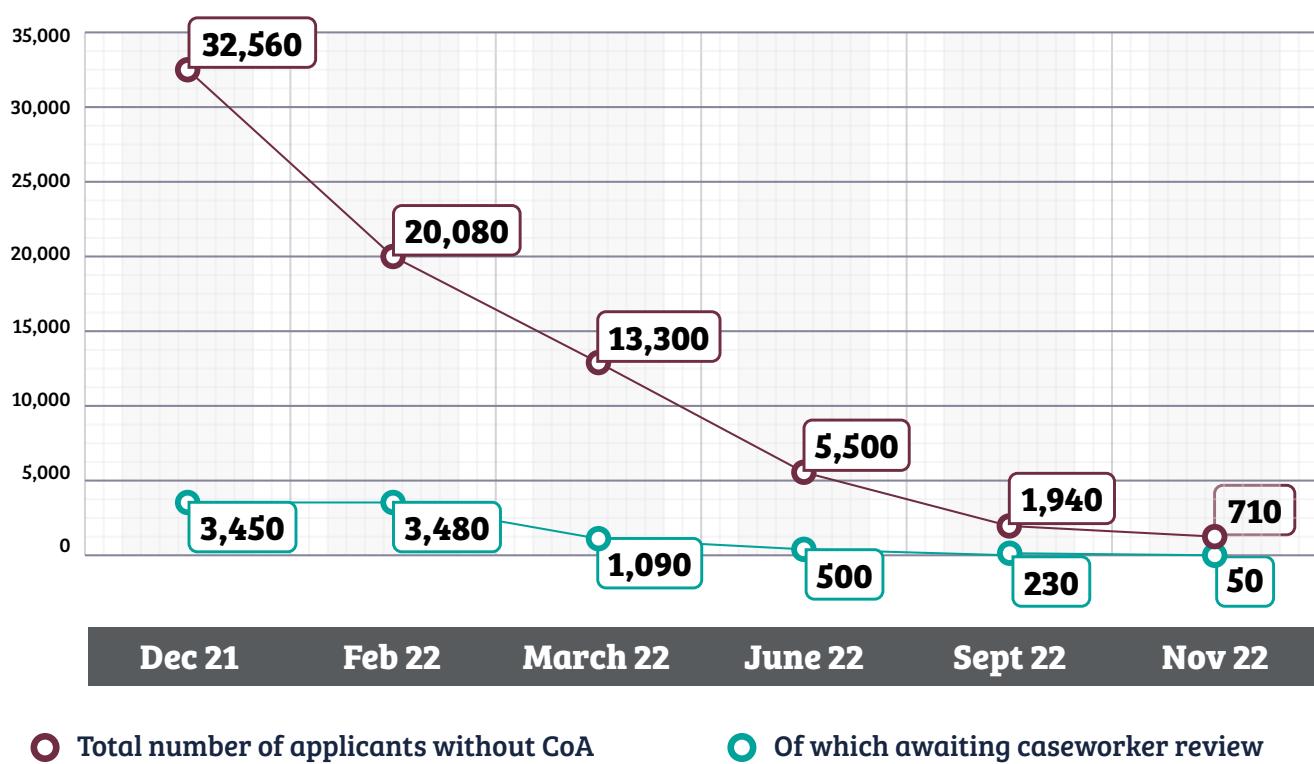
Graph 2. Late applicants vs. joining family member applications awaiting caseworker review



Paper applications

173. Graph 3 shows that, in December 2021, there were a total of 32,560 paper applications in respect of which a CoA had not been issued. This decreased consistently over time, reaching a total of 710 in November 2022.

Graph 3. Number of paper applications awaiting a CoA vs. number of which are awaiting caseworker review



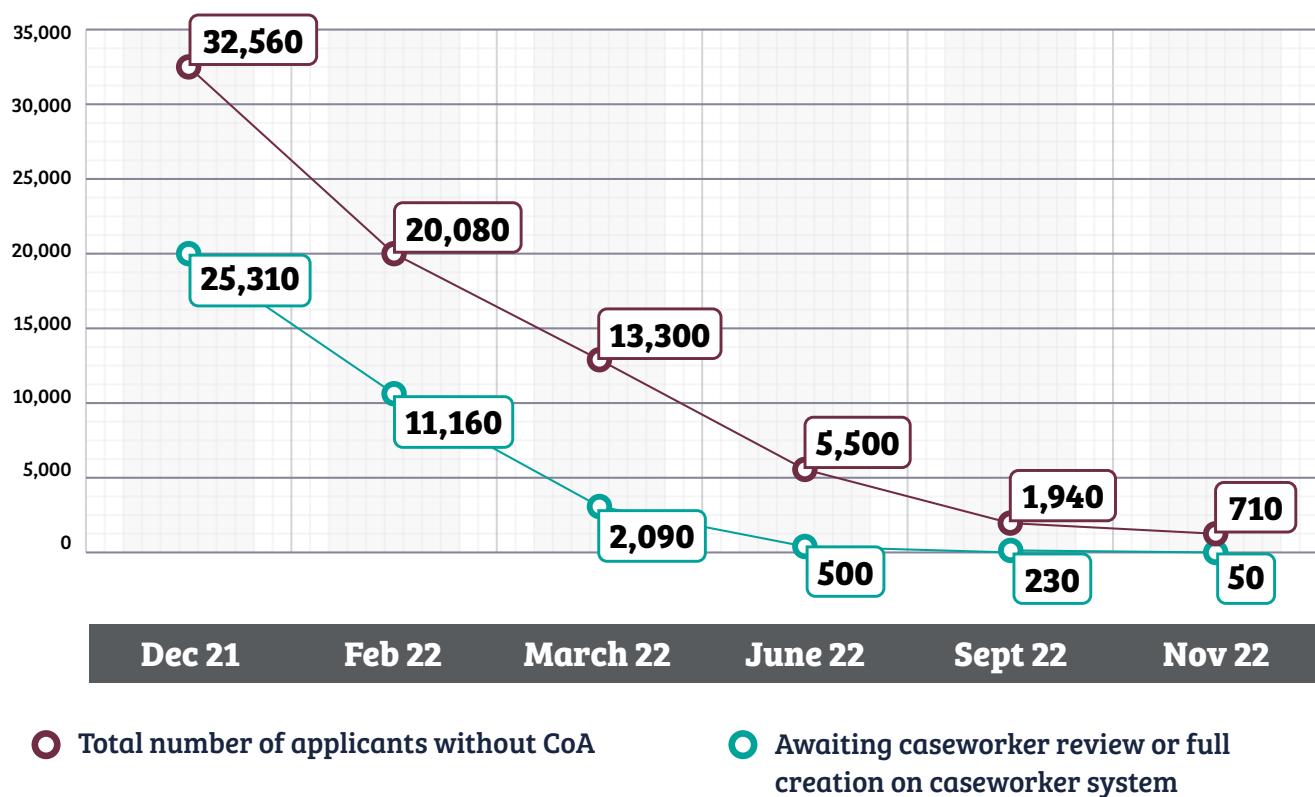
● Total number of applicants without CoA

● Of which awaiting caseworker review

174. This total represents all applications, including those awaiting an action by the Home Office (such as fully creating the case in the system) and those in which the applicant is required to act (such as submitting an identity document). This means that, unlike digital applications, the total number also includes applications that are awaiting caseworker input (i.e. to fully create their application on the system) but which are not included in the 'caseworker review' category.
175. A paper application awaiting a CoA would only be subject to a caseworker review once it was fully created in the system. Graph 3 shows that the number of paper applications that were awaiting caseworker review declined significantly from February 2022 onwards. Indeed, by November 2022, only 50 paper applications were waiting for a caseworker review.
176. The Home Office told the IMA that the policy for partially inputting applications in the system (a 'shell', as discussed earlier in this report) explains the peak in paper applications awaiting a caseworker review in December 2021 and February 2022. This was because, at that time, the partial creation of paper applications was being prioritised over and above the review of applications for validity, i.e. the issuing of AoAs was prioritised over issuing of CoAs, and so resource was directed towards achieving that objective.
177. The numbers for total applications in Graph 3 include applications yet to be fully created in the system by a caseworker. This means that, even though an application was not awaiting a 'caseworker review', it still required caseworker intervention before it could be progressed. The number of applications which fell into this category are as follows:
 - December 2021: 21,860
 - February 2022: 7,680
 - March 2022: 1,000

178. To show the impact of this on the numbers waiting for caseworker action, Graph 4 shows the total number of paper applications awaiting either a caseworker review or full input on the caseworker system proportionate to the overall number of applications pending a CoA. In December 2021 such paper applications constituted 78% of the total number of applications without a CoA. It is likely that a proportion of these applications then experienced a delay in receiving their CoA due to limited caseworker availability (discussed in paragraphs 83 – 89). The Home Office has been unable to provide any evidence to the contrary because they do not collect this data.

Graph 4. Paper applications awaiting caseworker intervention vs. total number awaiting a CoA



What does this mean?

179. As Graph 1 and Graph 4 shows, there were a high number of applications pending a CoA at the 2021 EUSS deadline and, for a period, a significant proportion of these were awaiting caseworker intervention. As set out in Part 3 of this report, there was a shortage of suitably trained caseworkers and of available caseworkers generally relative to demand.
180. Although data shows a steady decline in the numbers of applications awaiting caseworker intervention, there is no data as to the length of time that applications await caseworker intervention. The IMA therefore are of the view that the Home Office are hampered in its ability to identify issues and allocate resources accordingly which exacerbated problems caused by caseworker availability.
181. When considered alongside the issues regarding the availability of caseworkers in paragraphs 83-89 in Part 3, as detailed earlier in this report, and the **case sampling exercise**, the IMA consider it likely that a proportion of applications experienced delays in having their application validated. Furthermore, CoAs for paper applicants were not always being issued immediately from June 2021 to at least June 2022.
182. As noted in paragraph 75, the Home Office have indicated that a 5-day service standard for fully creating an application is achievable under business-as-usual conditions, albeit this is not formally recognised as a service standard. While the volume of applications during June 2021 may be considered by the Home Office to mean that it was not operating under business-as-usual conditions at that time, in the sampling exercise conducted in June 2022 (when the Home Office said that business-as-usual had resumed), the IMA identified delays beyond five days.

How can this be addressed?

183. The Home Office does not monitor the issuance of CoAs against any measure or target. However, it does recognise that under business-as-usual conditions, applications can be processed in five days. The IMA agrees with the Home Office that, generally, it should be possible for a properly resourced system to validate an application and issue a CoA in no more than 5 days.
184. Adopting such a service standard for the issuance of a CoA and to monitor their performance against that target would assist the Home Office in assessing the extent to which there are delays in issuing a CoA. It would enable any failure to meet the 5-day target to be identified and inform timely decisions to be taken regarding the design of the system and any additional resource needed to meet the target and by extension, the immediate issuance of CoAs.
185. Accordingly, to ensure the adequate and effective implementation of the requirement to issue a CoA immediately, the IMA considers it appropriate to recommend the Home Office should adopt a service standard where CoAs are issued within 5 working days from the time at which the application, or any required further information, is received. Further, the IMA recommends that the Home Office should monitor performance against that target.

Part 5: The impact on citizens' lives

186. The IMA opened a **Call for Evidence** on 6 June 2022, inviting **citizens** and stakeholders to submit evidence to the Inquiry.
187. The **Call for Evidence** sought information on the effect that a delayed CoA might have on **citizens'** lives. This work, along with wider investigation, identified two main themes: (1) ability to prove rights, and (2) experience exercising those rights.



Ability to prove rights

188. As noted in paragraph 12 **the Agreements** provide that while a decision on an application for residency status is pending, the applicant enjoys the rights they are entitled to under **the Agreements**. Under the EUSS and the domestic legislative framework in the UK, a CoA is the way in which an applicant can demonstrate his or her entitlement to his or her rights while his or her application is being determined.
189. Any delay in issuing a CoA risk there being a lack of protection for the applicant's rights because he or she will not be able authoritatively to prove that he or she has a pending application and is entitled to protection.
190. As explained in paragraph 112-114, to address potential delays, in June 2021 the Home Office created a concession and allowed applicants who had made an in-time application (i.e. an application made before the 30 June 2021 deadline) to use their AoA (known as an enhanced AoA) as proof that they had made an EUSS application and as evidence that they were entitled to rights under **the Agreements**.
191. Late applicants and joining family members did not have access to the enhanced AoA as a means by which to prove rights under **the Agreements**. Therefore, any delay in issuing a CoA to such applicants will leave them without any way in which authoritatively to prove that they have a pending application or that they have relevant rights.
192. However, even for those **in-time applicants** who were issued with an enhanced AoA, it was not a means of evidencing entitlement to all the rights provided for by **the Agreements**. An enhanced AoA, in conjunction with the Home Office verification checking service, could be used to prove only the right to rent and the right to work. As a result, and as we heard from **citizens**, this meant that at times other important rights were denied, including the right to treatment by a GP. In consequence, it would appear the enhanced AoA did not ensure that applicants who had made an in-time application had their rights fully protected.
193. The Inquiry heard that, without a CoA, EUSS applicants can have trouble in exercising rights under **the Agreements**. This is the case even for **citizens** who made an in-time application and received the enhanced AoA.

Experience exercising relevant rights

194. For **citizens** who responded to our **Call for Evidence** survey, issues with exercising a right to work was one of the most frequently noted areas of difficulty associated with a delayed CoA. These were followed by reports of issues with opening a bank account, accessing benefits, and renting property.
195. Some examples of survey responses to this effect are as follows:

'Many banks refused to open a bank account for me. I couldn't work as I did not have any proof of residency in the UK. During the 10 months since I have applied for the EUSS I was in a legal limbo. I was offered a job, but I had to show the employer a proof of residency which I didn't have. I couldn't travel out or return to the UK...'

(Citizen D)

'Not having a COA for over 6 months as well as my passport as this was also with the Home Office as a non-EU person made it extremely difficult for me to prove my identity and do basic everyday tasks like open a bank account. I was unable to work as I had no way to prove my rights and even the EUSS Resolution Centre told me that I was in a grey area and to speak to UK Visa and Immigration to extend my now expired EUSS family permit as until I did, I had no rights unless a COA was issued. I was essentially backed into a corner unable to lead any kind of normal life and this had a huge impact on my mental health and finances.'

(Citizen E)

'Universal Credit, which I was a recipient of got cut on the ground that they didn't have any trace of my status and with no Certificate of Application (and after uploading the email received confirming that I sent the application via email, I still am cut from UC)'.

(Citizen F)

196. The Inquiry also received submissions from stakeholders who highlighted issues for EUSS applicants with a pending CoA pertaining to other rights included within **the Agreements**. The issues included **citizens** being denied wages, work contracts being terminated, difficulty finding work, and issues securing a National Insurance number because of the inability to demonstrate that they had an application pending.
197. The impact of this on vulnerable **citizens** was highlighted in one submission that referred to anecdotal reports of victims of domestic violence struggling to access a refuge or safe housing because of a delay in obtaining a CoA.

Delayed return of identity documents

198. An unintended consequence of a delay at the **validity stage** is a delay in returning any identity documents that are provided by an applicant when an application is made. All paper applicants are required to submit a physical identity document and any online-digital applicants who choose not to use the app or are not able to validate their application via the app also need to submit a physical identity document.
199. This was highlighted by 'Citizen G, who told us that, three months after making an in-time application to the EUSS, they needed to travel, but they had not received a CoA or their passport.

'I did not hear anything further about my application but had to travel in October 2021 for personal reasons, despite still being without my passport. In September 2021, on phone call chasing for my passport, the Home Office advised that I should not have any issues in entering the UK with my national ID card, just could face some questioning at the UK Border (but all should be fine by showing them a photocopy of the passport and the Home Office acknowledgement letter with my case number). Travelling abroad and back was fine, according to the Home Office.

In October 2021 Ryanair refused my boarding with my ID card back to the UK justifying it with having received specific instructions from the UK Home Office on this respect. I called the Home Office helplines for days, the lines weren't working or would automatically disconnect after going through menu options or would provide a second phone line to call which would only refer one back to the previous phone line and automatically disconnect. A helpless loop indeed.

I raised an urgent query through the Home Office website via inquiry forms, the email response was a standard template not addressing the issue raised at all. The inquiry forms do not provide an automatic acknowledgement containing the query or a reference number, therefore it is not possible to correlate their response to the query in case of investigation. The response emails cannot be responded to for follow up and do not contain the initial query either. There is no continuation or correlation, very unprofessional.

I got back to the UK 10 days later after the Spanish police issued an emergency passport'

(Citizen G)

200. Citizen H described to us their experience after submitting a paper application, along with a passport as identity document, in September 2021. The applicant was required to travel some 5-6 weeks after the application was made and numerous attempts were made to track the application and request that the passport be returned. The passport was finally returned along with a CoA on 28 December 2021, after unsuccessful calls to the SRC who were unable to provide further information:

'I had a further conversation in November with the SRC [Settlement Resolution Centre] and it became apparent that they did not have any information or access to application details. They did appear to have access to caseworkers, but only via a one-way street – they could send them communications and notes, but they could not speak to them direct.'

(Citizen H)

201. Finally, citizen I told us that they waited over six months for their CoA after making an application in June 2021 and did not receive their passport back until after their CoA had been received:

'I have to say the experience of applying to the EUSS was very different to the expectation I had. I thought it would take a couple of weeks to get a Certificate of Application having looked at the Government website. I felt very much in Limbo. Not just me, but also my family. No one would answer my questions relating to progress. I did try speaking with the Resolution Centre on a number of occasions but that proved far from fruitful. All I kept being told was they could not provide any updates.'

(Citizen I)



Glossary of terms and references for inquiry

Term	Definition
Acknowledgement of Application (AoA)	A document issued by the Home Office to acknowledge receipt of an application to the EUSS.
Biometric Residence Card (BRC)	A card which digitally stores personal details (name, date, and place of birth) and other information such as facial image and fingerprints and, according to the Home Office, can be used to show immigration status and entitlements while in the UK.
Call for Evidence (CfE)	An information gathering exercise comprising of an online survey and mailbox for citizens and other stakeholders to submit information to the Inquiry.
Case sampling exercise	The onsite phase of the Inquiry conducted by the IMA at the Home Office's UK Visas and Immigration offices. The IMA reviewed a randomly selected sample of EUSS applications from June 2021 and June 2022, including a chronology for each application.
Citizens	Citizens who are eligible to apply to the EUSS. This will include citizens directly protected by the Agreements and the extra cohort of citizens not protected under the Agreements but who are eligible to make an application under the EUSS. The IMA have included the extra cohort within the scope of the Inquiry because all applicants to the EUSS will be subject to the same processes and will experience the same systemic issues. However, the recommendations are limited to the promotion of the adequate and effective implementation or application of Part 2 of the Agreements.
Completed App Session	A completed app session is where the applicant has completed all the stages, they are able to and progressed to either automated CoA generation, caseworker intervention (such as checking a facial match or where the 'liveness' check was skipped) or the applicant being required to send in their identity document for verification. The app concerns the validity stage of the application process and therefore a completed app session does not necessarily mean that the applicant then went on to complete an EUSS application.
Eligibility stage	The third and final stage of considering an EUSS application under the requirements in Appendix EU, following which a decision is made regarding whether status will be granted to the applicant and, if so, whether that status will be pre-settled status or settled status.

Term	Definition
End of the transition period	11pm on 31 December 2020. This is the point at which the EU law that had continued to apply to and within the UK via Part 4 of the Withdrawal Agreement ceased to apply. EU free movement rules were brought to an end in the UK at 11pm on 31 December 2020.
Enhanced Acknowledgement of Application (Enhanced AoA)	A version of the AoA issued to in-time applicants that could be used to prove some of the rights guaranteed under the Agreements. The email or letter could be used to prove right to work and right to rent only pending the validation of the applications and issue of a CoA.
External User Authentication (EUA)	An EUSS applicant's online user profile. This is where the applicant's digital CoA and EUSS status is stored.
Grace period	The period from the end of the transition period to 30 June 2021. For countries that decided to require citizens to apply in order to enjoy the rights contained in the Agreements (referred to as a 'constitutive scheme'), the Agreements required a grace period of a minimum of 6 months from the end of the transition period during which the full rights contained in the Agreements would be available. The UK decided to implement a constitutive scheme and set the grace period to come to an end 6 months from the end of the transition period, i.e. 30 June 2021. The Agreements provided for a grace period during which EEA citizens and their family members who were lawfully resident in the UK under EU free movement law before the end of the transition period were given additional time to make their application under the EUSS. (See Article 18(1)(b) and (2) of the Withdrawal Agreement; and Article 17(1)(b) and (2) of the EEA EFTA Separation Agreement; and the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 made under powers in the European Union (Withdrawal Agreement) Act 2020).
In-time applicants	Citizens (other than joining family members – see below) who have made an application to the EUSS before the end of the grace period (30 June 2021). Also joining family members who have applied before (1) the expiry of the period of 3 months after their arrival in the UK, or (2) the end of the grace period (30 June 2021); whichever is later.
Person-Centric View (PCV) checks	A check completed by a caseworker to ensure the additional photographs provided by an applicant (where required because the applicant requires a BRC) match what was originally provided in the application.

Term	Definition
Settlement Resolution Centre (SRC)	A helpline for EUSS applicants who have questions about how to apply or questions about an application they have submitted. It also provides support with any technical issues while applying online.
Share code	A number which is issued to an EUSS applicant which can be used to prove status in the UK using the View and Prove service. The service will show if they have the right to live in the UK, and any restrictions on their rights or access to benefits and services
Suitability stage	The second stage of considering an EUSS application under the requirements in Appendix EU, which involves an assessment of the applicant's personal conduct or circumstances in the UK and overseas, including whether they have any relevant prior criminal convictions, and whether they have been open and honest in their application.
The Agreements	The UK-EEA EFTA Separation Agreement and the UK-EU Withdrawal Agreement, and specifically Part 2 of those Agreements which provide rights for those EU and EEA EFTA citizens, and their family members, who were living in the UK in accordance with EU law prior to 11pm on 31 December 2020 and any joining family members.
Third country nationals	To mean nationals from outside the EEA and Switzerland.
Validity stage	The first stage of considering an EUSS application under the requirements in Appendix EU, where the application is checked to confirm the identity of the applicant and ensure compliance with EU9 (for example, the correct application form has been used).
View and Prove	An online platform which can be used to access online immigration status, also called an e-Visa.

Annex 1: Inquiry Methodology

In carrying out this Inquiry, the IMA gathered information in the following ways:



Interviews

We conducted interviews and meetings with Home Office staff on policy and operational matters relating to CoAs, including:

- Representatives from the Home Office policy team which included the Deputy Director of the EEA Citizens' Rights & Hong Kong Unit,
- Representatives from the Home Office's UK Visa and Immigration (UKVI) division including the Head of EUSS, SRC, Settlement, Hong Kong, British National Oversees (BNO) operations.

We also held and attended meetings with other stakeholders to promote the Inquiry, including:

- IMA citizens panel
- A virtual 'drop-in' session for the public in July 2022, and
- Other stakeholders including New Europeans, The 3 Million, EUSS advisors from the Greater London Authority GLA, The European External Action Service and the EU Delegation monitoring network.

A call for evidence

The IMA opened a **Call for Evidence (CfE)** on 6 June 2022 which consisted of an online survey and email route for written submissions. It closed at the end of September 2022.

Stakeholders, including complainants and Grant Funded Organisations (GFOs), were contacted with information about our CfE and how to contribute.

The online survey asked for contact details from respondents for the purpose of fulfilling a follow-up exercise. In the follow-up exercise, the IMA took accounts from citizens and stakeholders and used the information (where consent received) to locate and review cases at the Home Office. This allowed us to validate the accounts that had been given and examine cases if problems with CoAs had been reported.



Data and information requests

We collected and analysed management data from the Home Office in relation to the number of EUSS applications pending a CoA. A breakdown of the data was provided as follows:

Paper applications:

- Number without a CoA
 - Number that had been provisionally inputted (a 'shell')
 - Number of which were fully created
 - Number of which required further information from the applicant
 - Number of which were awaiting caseworker review
- Number of which were received after the deadline
- Number of which can be categorized as the extra cohort i.e. not directly protected under **the agreements**

Digital-online Applications:

- Number without a CoA
- Number of which were in-time
 - Number of which fell for rejection
 - Number of which were awaiting biometric enrollment or a further image or identity document
 - Number of which were awaiting caseworker review
- Number of which were received after the 30th June 2021 deadline
 - Number of which fell for rejection
 - Number of which were awaiting biometric enrollment or a further image or identity document
 - Number of which were awaiting caseworker review
- Number of which were made (both before and after 30th June 2021) by a joining family member
 - Number of which fell for rejection
 - Number of which were awaiting biometric enrollment or a further image or identity document
 - Number of which were awaiting caseworker review
- Number of which were applications to switch from pre-settled to settled status

Data was provided by the Home Office prior to the announcement of the Inquiry in January 2021 as part of an information gathering exercise undertaken by the IMA's as part of its monitoring duty³⁸. Four subsequent data sets were provided to the Inquiry by the Home Office reflecting repeat data as of:

- **February 2022**
- **June 2022**
- **September 2022**
- **November 2022**

Documentation and information was gathered and reviewed as part of the Inquiry, including templates and EUSS process flows. The Home Office also responded to written requests for information from the IMA.

Where the IMA have used Home Office data to estimate / assess proportions of applications, we have made this determination based on available data and in the absence of (more) reliable data.

38 www.legislation.gov.uk/ukpga/2020/1/schedule/2/enacted

Case sampling exercise

The IMA chose to review a sample of Home Office records; to undertake a fuller audit would have lengthened the Inquiry.

The IMA reviewed 243 random EUSS cases at the Home Office; a written chronology was also provided by the Home Office for each one.

To ensure that a representative sample was selected, the IMA defined for the Home Office the cohorts from which cases should be selected. Figure 1 shows these cohorts.

The Home Office was unable to provide samples from all of the cohorts due to limitations regarding their case selection capabilities, this is detailed on Figure 1 where relevant.

The Home Office Analysis and Insight Team extracted random samples of cases from each of the cohorts defined by the IMA. The number of cases that were selected from each cohort was proportional to the total number of applications that had been received for that group, i.e., 0.1% of the total number of applications for that cohort.

Where the total number of applications in a cohort was too low for the approach to work (i.e., 0.1% of 420 is less than 1 application) then 5 cases were extracted. When the application figures were too large (i.e., 0.1% of 33,600 is 366) a maximum of 20 were extracted.

Although the approach meant that some of these samples were not fully "representative" (i.e., 20 applications out of 43,700 is not indicative of the cohort) the Inquiry did not intend to draw any statistical inferences.

In fact, the actual number of applications reviewed from each cohort fluctuated slightly due to case selection challenges. In other words, for some of the cases selected from one cohort, the information showed it did not belong there.

Cases were selected from each cohort at random using SQL (a data language used for storing, manipulating, and retrieving data in data bases) and shared with operational staff at the Home Office for a chronology to be prepared.

The IMA reviewed cases from both June 2021 and June 2022 to account for the different set of circumstances faced by the Home Office a year apart.

Figure 1: Random selection application groups

		A. Paper applications made in June 2021	B. Digital applications made in June 2021	C. Paper applications made in June 2022	D. Digital applications made in June 2022
1	EEA nationals	(28,000) 28 applications reviewed	(336,000) 20 applications reviewed	(350) 5 applications reviewed	(43,700) 20 applications reviewed
2	Non-EEA nationals with a BRC	The paper system does not record this information	(13,680) 13 applications reviewed	The paper system does not record this information	(2,070) 5 applications reviewed
3	Non-EEA nationals without a BRC	(6,560) 6 applications reviewed	(24,000) 24 applications reviewed	(420) 6 applications reviewed	(4,380) 5 applications reviewed
4	Online applicants who were required to post identity documents	N/a	(116,440) 20 applications reviewed	N/a	(9,670) 20 applications reviewed
5	Children (17 and under)	(23,100) 23 applications reviewed	(121,800) 20 applications reviewed	(270) 5 applications reviewed	(10,400) 10 applications reviewed
6	Paper applicants who submitted an out-of-date passport	The paper system does not record this information	N/a	The paper system does not record this information	N/a

		A. Paper applications made in June 2021	B. Digital applications made in June 2021	C. Paper applications made in June 2022	D. Digital applications made in June 2022
7	Applications that took longer than 4 weeks to issue a CoA	The system does not record this information	The system does not record this information	The system does not record this information	The system does not record this information
8	Home Office complainants (that reference no/ delayed CoA)	The system does not record this information			
9	Applications that have not yet been issued a CoA	(4,930) 2 applications reviewed	(403,850) 5 applications reviewed	(130) 1 application reviewed	(49,800) 5 applications reviewed
10	Cases that have received a complaint relating to CoA issuance	The Home Office told the IMA that due to the granular level of the request; this could not be provided.			

Citizens accounts

The IMA took 13 citizens' accounts relating to 14 EUSS cases/ applications (one citizen submitted 2 applications). Of the 13 accounts, 11 were verified against Home Office records. One case could not be verified because it was restricted, and the other was not correctly identified i.e., the dates and information did not correspond.

Annex 2: Call for Evidence

- The Inquiry opened a Call for Evidence **on 6 June 2022**.
- It included a survey for collecting information from stakeholders which was live from **June until the end of September 2022**. Written submissions were also encouraged via e-mail.
- The Inquiry received **4 formal submissions of evidence** from Citizens Advice Bureau (CAB) Southampton, The 3 million, Rights of Women and Here for Good.
- **36 full responses to the survey were received in total.** Given the sample size of results, the IMA could not make statistically significant inferences from this Call for Evidence.
- Of the responses received, there was an almost equal divide between those who reported receiving their Certificate of Application (CoA) in less than 3 months (**45% or 16 respondents**) and those who reported their CoA taking greater than 3 months (**43% or 15 respondents**). The remaining respondents reported not knowing how long it took to receive their CoA.
- Whilst most respondents reported submitting an in-time EUSS application, all late applicants (8 respondents) reported their **CoA taking greater than a month**. Of non-EU/EEA respondents, 100% (or 7 respondents) reported their **CoA taking greater than 3 months** to be received. This was likewise the case with 100% of paper applicants (6 respondents).
- The IMA additionally asked respondents about difficulties experienced because of not having a CoA. Issues with travel/entry to the UK and working in the country were the two key areas where difficulties were reported because of not having a CoA. These were followed by reports of **issues with opening a bank account, accessing benefits, and renting property**.
- When asked which rights citizens felt they were unable to access as a result of not having a CoA, the top two reported by citizens:
 - **the right to enter and remain in the UK**, and
 - **the right to work/be self-employed**.

Annex 3: Inquiry Timeline

The IMA wrote to the Home Office formally requesting specific information in relation to the issuance of Certificate of Applications (CoAs) and informing the Home Office of the potential to move to inquiry.

27 October 2021

Formal response received from Home Office.

7 January 2022

IMA enter into correspondence with Home Office regarding potential inquiry (but no discussion of specific inquiry topic at this point) and begin planning processes to facilitate an inquiry.

22 March 2022 to 4 May 2022

As part of the evidence gathering phase, the IMA send data monitoring request to Home Office for July, September and November.

30 June 2022

21 December 2021

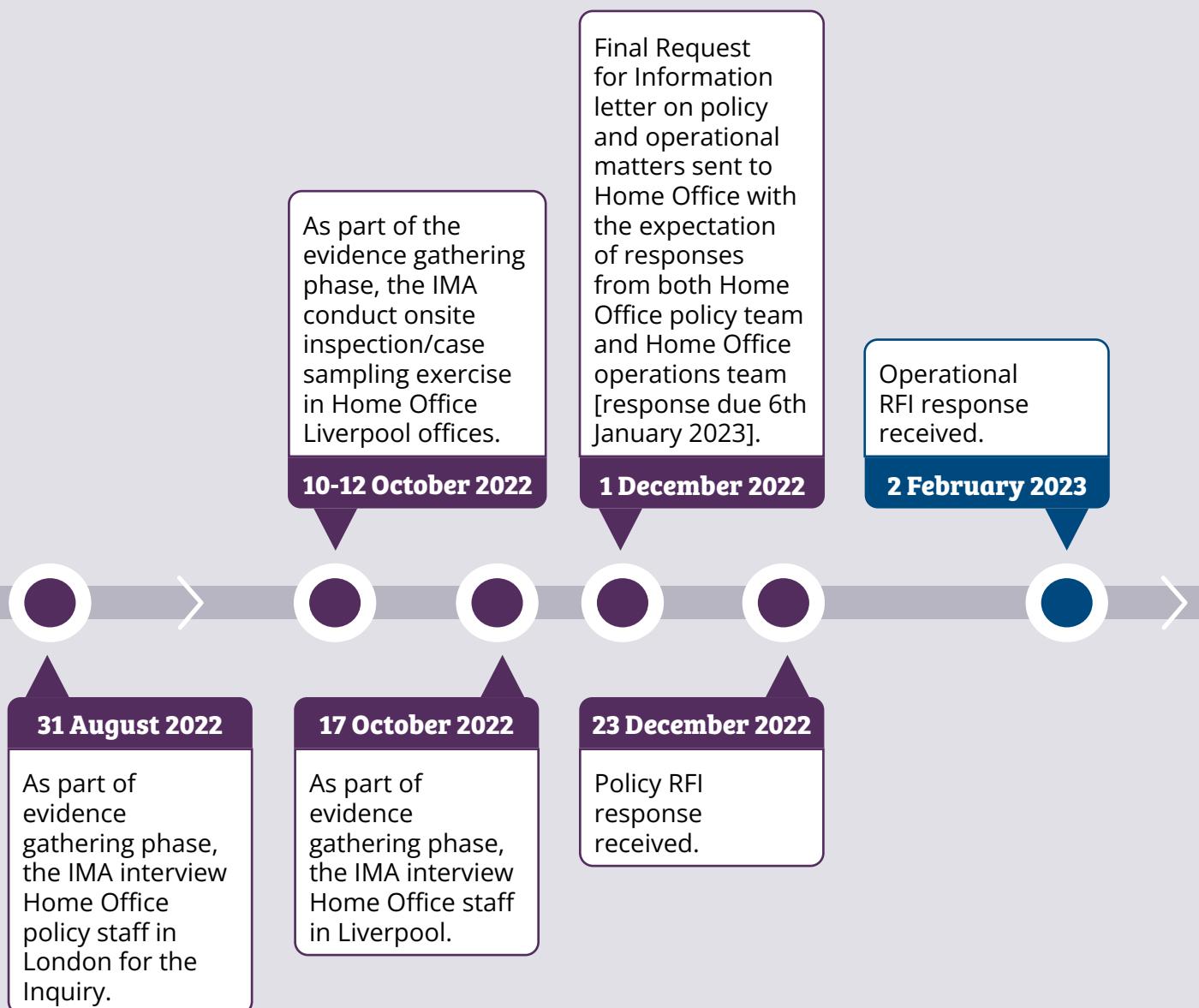
Final reminder sent by IMA to the Home Office requesting a response with a final deadline of Friday 7th January 2022 for a response.

7 February 2022

IMA and Home Office meet to discuss formal response, but questions remained unresolved.

6 June 2022

Inquiry announced and Call for Evidence launched (Call for Evidence please see Annex 2).



Annex 4: Inquiry terms of reference

TERMS OF REFERENCE

Certificates of Application

June 2022

The inquiry will examine whether the Home Office has fulfilled its obligations under Article 18(1)(b) of the Withdrawal Agreement and Article 17(1)(b) of the EEA EFTA Separation Agreement to issue Certificates of Application to applicants to the EU Settlement Scheme (EUSS) immediately.

The purposes of the inquiry are for the IMA to decide whether the United Kingdom has failed to comply with the abovementioned Articles and/or whether the Home Office is acting in a way that prevents persons exercising a right created or arising under Part 2 of the Withdrawal Agreement and/or Part 2 of the EEA EFTA Separation Agreement, and to identify any recommendations that it considers appropriate to be made to promote the adequate and effective implementation or application of Part 2 of those Agreements.

The IMA is satisfied as to the matters referred to in paragraph 25(3) of Schedule 2 to the EUWAA 2020 and has had regard to the matters referred to in paragraph 24

In pursuit of these purposes the IMA will aim:

1. to objectively review and assess the policy and process adopted by the Home Office for issuing Certificates of Application to EUSS applicants
2. to assess and analyse how this process is implemented and applied in practice, and
3. to assess any impact on citizens' lives caused by the way in which Certificates of Application are issued.

In conducting the inquiry, the IMA will consider:

1. listening to citizens and consider their experience by:
 - a. issuing a Call for Evidence,
 - b. reviewing existing complaints,
 - c. taking accounts directly from citizens, and
 - d. considering information from stakeholders and other third parties;
2. investigating the Home Office by:
 - a. examining data and information requested of the Home Office,
 - b. performing on-site visits, and
 - c. interviewing staff;
3. seek representations from any person it considers appropriate.



For the Citizens'
Rights Agreements

Independent Monitoring Authority

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