



Assurance Review (Looked After Children and Care Leavers)

**Local Authority and Health and Social Care Trusts support for
Looked After Children and Care Leavers in making applications to
the EU Settlement Scheme (EUSS)**

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Executive Summary

Following the UK's departure from the EU, relevant citizens living in the UK are required to register under the EU Settlement Scheme (EUSS). Status under this scheme enables citizens to demonstrate their rights under the Part 2 of the Withdrawal Agreement and Part 2 of the EEA EFTA Separation Agreement (“the Citizens’ Rights Agreements”).

Local government has a duty to support looked after children and children in receipt of local government care who are eligible for the EUSS to make and support applications to the scheme. This responsibility extends to children in shared care arrangements and care leavers up to the age of 25 (26 in Scotland). These responsibilities lie with different forms of local authorities or health and social care bodies depending on the geographic area¹ (in this assurance review, these will be collectively referred to as local government.)

Applications to the EUSS for children and care leavers often rely upon parents and guardians to provide the necessary information and documents. For children where parental responsibility has transferred or is shared with local government, securing information or necessary documentation may be challenging, and relies upon local government discharging their responsibilities. Citizens who are not supported, or unaware of the need to obtain status, may be unable to exercise rights in the future. Being able to recover required information or documentation may become more challenging over time.

The Independent Monitoring Authority for the Citizens’ Rights Agreements (IMA) is tasked with monitoring the actions of public bodies in the UK and Gibraltar to check that they act to ensure the rights contained in the Citizens’ Rights Agreements. Further information on the work of the IMA [can be found on the IMA website](#).

The IMA has begun a programme of work to assess whether local government across the UK is taking necessary action to ensure that looked after children and care leavers can enjoy their rights as provided for under the Citizens’ Rights Agreements.

This report outlines our approach to the review. As the work progresses, we will publish separate reports summarising our findings in each part of the UK.

¹ For example, it will be for the local authority in Wales (county council or county borough council), health and social care trusts in Northern Ireland.

Assurance Review (Looked After Children and Care Leavers)

Rationale for IMA focus

Application to the EUSS on behalf of children and young people often relies upon parents and guardians to provide the necessary information and documents. The resulting EUSS status protects the individual's citizens' rights². For children where parental responsibility has transferred away or is shared with parents or guardians, securing this information or documentation could be challenging, and relies upon local government discharging their responsibilities. Citizens who are not adequately supported or are unaware of the need to obtain status may be unable to exercise rights in the future despite their eligibility to apply to the EUSS. As time passes, being able to recover required information or documentation may become more challenging. The IMA therefore considers it necessary to satisfy itself that safeguards are in place to protect potentially vulnerable citizens.

The IMA is undertaking an assurance review to examine whether local government is fulfilling its responsibilities to identify and support applications for children and care leavers within their area who are eligible to apply to the EUSS. The responsibility of identification extends to children in shared care arrangements and care leavers up to the age of 25 (26 in Scotland) as well as those in receipt of local government support, for whom those organisations have a duty to signpost and offer support with EUSS applications.

Where local government is not identifying eligible children and/or care leavers to make EUSS applications this may be indicative of a public authority acting (or not acting, as the case may be) in a way which prevents such citizens from exercising their rights.

Local government obligations

The Home Office issued guidance to local government which was published on 30 April 2020. This guidance explained the role of local government in supporting looked after children and care leavers who are EU and EEA EFTA citizens and their family members. This guidance provided further signposting on where local government could access further support. The IMA considers that this guidance provides a sound basis on which local government should act to ensure the rights of looked after children and care leavers.

The guidance sets out the obligations of local government. This includes:

- To identify adequately trained resource to manage and make applications.
- To identify eligible children including:
 - looked after children for whom local government has parental responsibility;
 - looked after children who are accommodated;
 - care leavers; and

² This is however subject to the relevant conditions continuing to be met.

- any other children in receipt of local government support, for example children in need.
- To identify key signposting responsibilities towards each eligible child and put plans in place to ensure this signposting support takes place.
- To determine, for each child local government has parental responsibility for, whether they will be applying online and whether they can use the [EU Exit: ID Document Check service](#), or will be posting their identity document to the Home Office to be checked and returned.
- To keep an adequate record of each application made, including the status granted and which email address and phone number were used. Noting the answers given to memorable questions in case the Home Office needs to authenticate the caseworker or the child to discuss the application.
- To record plans for monitoring the child's status, including future actions, with deadlines, so that where the child is granted pre-settled status (generally where they been continuously resident in the UK for less than five years) there is an application to convert to settled status at the appropriate time in the child's care plan or the care leaver's pathway plan.

Data recording under Home Office guidance

When an application on behalf of a looked after child or care leaver is made, or if signposting or supporting someone to make an application for a looked after child or care leaver, it is essential that key information is recorded. This information needs to be accessible if the caseworker, the child, or the Home Office need to check on the progress of the application and to ensure the digital status granted can be accessed.

Detailed records and plans for monitoring the child's status, including future actions with deadlines, in order to convert pre-settled status into settled status should be documented in the child's care plan or the care leaver's pathway plan.

Information should be stored centrally so that changes in personnel do not affect its ability to be accessed. Applicants and relevant third parties (e.g. parents/carers) should also be made aware of the need to store this information themselves, where appropriate. Data should be stored securely in line with GDPR policies.

Information to be recorded:

- The Unique Application Number (UAN) given when the application is made.
- The e-mail(s) and phone number(s) that were entered in the application form.
- The address that was entered in the application form.
- The answers that were given to the memorable questions at the end of the application form.
- The nationality of the child or care leaver.
- The status the child or care leaver was granted.
- The date that the child or care leaver can apply to convert their pre-settled status into settled status, and the date their pre-settled status expires (required only for those granted pre-settled status).

What the IMA is looking to achieve and why

Methodology

This review is being conducted in three phases.

Phase One

The IMA will seek assurance that [guidance](#) issued by the Home Office to local government is being followed in line with corporate parenting duties, and therefore ensure rights provided under the Citizens' Rights Agreements³.

The IMA will request the following information from all local government across the UK:

- Full processes for the identification of all eligible children and care leavers.
- Confirmation that a full historic identification process has been completed in respect of all children within their remit. (i.e. retrospective checks)⁴
- Confirmation of historic identification of care leavers for up to seven years.
- Procedures for record keeping and monitoring EUSS status to ensure citizens with pre-settled status apply for settled status when eligible and seek assurance that accurate records for status and contact details are maintained.

The IMA has grouped local government into different parts of the UK in order to manage communication in an orderly manner. The IMA will request for information from all local government, with the aim of identifying potential good practice and/or areas for improvement.

The IMA will assess the information supplied and consider the extent to which it demonstrates that Home Office guidance is being fully implemented. The outcome of each phase will be published and will summarise the results of requests for information from each nation or region.

The IMA will assess the information provided by each local government body using a RAG (Red-Amber-Green) grading system using the definitions below. The RAG gradings are based on our review of the initial response received from each local government body.

Phase Two

The IMA will consider opening individual assurance reviews for local government bodies if there is concern that a respondent to phase one has not demonstrated how they are discharging their statutory responsibilities, which in turn could impact the rights of a child or children under the Citizens' Rights Agreements. The IMA will also open assurance reviews for individual local government bodies who did not provide a response to our request for information, as well as those that failed to respond by the set deadline.

It is possible that in responding to the IMA, individual local government bodies have not sufficiently articulated how they support the cohorts above. During individual assurance reviews, the IMA will work with identified local government bodies to understand how responsibilities are being discharged, refer to the principles identified in this assurance review and may make further recommendations and/or utilise follow up periods. The IMA reserves the right to consider further action.

³ [Home Office, EUSS: Looked-after children and care leavers local authority and health and social care trust guidance: 2020.](#)

⁴ Retrospective checks here refer to a local government checking historical records in order to identify any eligible children or care leavers who they have a responsibility to support in making an EUSS application where they are up to the age of 25 (in England) and may have left care up to seven years ago.

Phase Three

Once all individual assurance reviews for a nation or region have been concluded, the IMA will produce an updated regional report for the relevant area.

RAG Grading Criteria

	Identification	Record Keeping	Retrospective checks
Green	Response provides a detailed process for identification of eligible children and care leavers under the remit of local government, including non-EEA family members of EEA citizens. This includes the provision of supporting documentation outlining their process, and details of how the process and awareness of the EUSS has been disseminated to those identifying and supporting eligible children or care leavers.	Response explains a clear record keeping process which includes record of the EUSS application status/outcomes, contact details, and when the child or care leaver would be eligible to upgrade from pre-settled status to settled status.	Response confirms that retrospective checks have been completed and are based on an identification process which has also been graded as green.
Amber	Response provides a process for the identification of eligible children and care leavers under their remit in little detail. Local government body does not have supporting documentation or has not provided details of dissemination of information and the EUSS guidance to staff.	Response explains record keeping process. However, it is unclear, or it is not the case that all details of the EUSS application status/outcomes, contact details, and eligibility to upgrade from pre-settled status to settled status are consistently recorded for all eligible children.	Unclear from response whether retrospective checks of all children under the local government body's remit and care leavers have taken place, or checks based on identification process which has been graded as amber
Red	Response provides unclear identification process (for example, refers to identification of children using recorded ethnicity), and the local government body does not provide supporting documentation or detail of dissemination of information and process guidance to staff.	Response does not provide record keeping process or explains that it has not yet been established for the EUSS by the local government body.	Response indicates that retrospective checks of all children under the local government body's remit and care leavers have not taken place, or checks based on identification process which has been graded as red.

Best Practice Principles

From the Home Office guidance, the IMA has identified five key examples of best practice when it comes to local government effectively supporting looked after children and care leavers. The requests from the IMA to local government will focus on these key areas and local government should reflect on these principles when responding to IMA requests for information, and therefore confirming their responsibilities:

- Principle 1** Local government to develop a formalised written process for identifying and supporting all eligible children and care leavers within its remit. This will improve consistency in the identification process and allow for greater awareness of the EUSS and the responsibility of the local government.
- Principle 2** Local government to use nationality as opposed to ethnicity as a filter when searching for eligible children and care leavers as part of the identification process.
- Principle 3** Local government to ensure that its formalised written identification process includes a strategy for identifying non-EU and EEA EFTA family members of EU and EEA EFTA citizens.
- Principle 4** Local government to ensure all data is captured and stored in line with GDPR Policies for all eligible children in accordance with Home Office guidance. This will ensure status is monitored when moving from pre-settled status in to settled status once a child or care leaver has accrued five years' continuous residency⁶.
- Principle 5** Local government bodies ensure that complete retrospective checks of all eligible children and care leavers in its remit have been completed and remain ongoing.

5 Where this review refers to non-EEA family members this refers to non-EU/EEA EFTA citizens who are family members of EU/EEA EFTA citizens.

6. This assurance review has considered record-keeping, for example as to when a citizen has accrued settled status, as well as (inherent within this workstream) any support or other assistance local authorities may need to provide. However, this is completely without prejudice to the IMA's judicial review against the Home Office, further details of which [can be found here](#).

Appendix

Appendix 1 - Table of Definitions

IMA	Independent Monitoring Authority for the Citizens' Rights Agreements
EU	European Union
EEA	European Economic Area
EFTA	European Free Trade Association
EEA EFTA	Iceland, Norway, and Liechtenstein
EUSS	European Union Settlement Scheme
LA	Local Authority
PSS	Pre-Settled Status
SS	Settled Status
LAC	Looked After Children
CL	Care Leavers
HSCT	Health and Social Care Trusts

Appendix 2 - Legal Framework

The IMA has two general duties:

- to monitor the implementation and application in the UK of the Citizens' Rights Agreements (paragraph 22(1) of Schedule 2 to the European Union (Withdrawal Agreement) Act 2020 (EUWAA)), and
- to promote the adequate and effective implementation and application in the UK of the Citizens' Rights Agreements (paragraph 23 of Schedule 2 to EUWAA).

The IMA's duty to monitor includes the requirement to keep under review the adequacy and effectiveness of the exercise by relevant public authorities of functions in relation to the Citizens' Rights Agreements (paragraph 22(2) of Schedule 2 to EUWAA).

The responsibilities of local government in relation to looked after children and care leavers who are EU or EEA EFTA citizens (or their respective family members) therefore fall within the scope of the IMA's monitoring duty.

However, the IMA's engagement with local government through this work and its report is intended to identify where practice could be improved and to also highlight good practice. As such, the work will also contribute to the IMA's duty to promote.

This report, and the work it refers to, is prepared in accordance with the IMA's duty to monitor and promote under paragraph 22 and 23 of Schedule 2 to EUWAA.

The engagement of local government to this work is subject to the requirement on relevant public authorities to comply with the IMA (paragraph 35 of Schedule 2 to EUWAA).

Appendix 3 – IMA Examples

The IMA has provided examples below to support the definitions of eligible children and care leavers.

Child A

Child A is five-year-old, a French national and arrived in the UK in January 2019 with his family when six-months old. Child A was subject to a care order issued in June 2020. Child A was placed into temporary foster care. The local authority had identified that Child A needed to apply for residence status under the EUSS before the 30 June 2021 deadline.

Child B

Child B is 14-year-old, a Polish national and has lived in the UK since November 2019. Child B is currently in foster care. Child B was required to apply for status under the EUSS before the 30 June 2021 deadline. The local authority identified that Child B had out of date identity documents and needed to apply for replacement documents in order to submit an EUSS application. The local authority supported Child B through the application process.

Care Leaver C

Care Leaver C is now 19-year-old, a Bulgarian national who arrived in the UK aged 15. Care leaver C was placed in a residential care home from the ages of 15-18. Care leaver C recently left care. During Care leaver C's placement, the local authority supported him to apply for, and obtain, pre-settled status⁷ to the EUSS. Care leaver C has now reached five years continuous residence in the UK and is eligible to apply for settled status. The local authority is now required to support him in his application to obtain settled status.

Child D

Child D is a Spanish national, living at home under a care order. Their Spanish parent has not applied to the EUSS for themselves to date. During assessment by the local authority, it was identified that Child D's parent had also not applied to the EUSS in respect of Child D. The local authority was able to signpost and provide support to Child D's parent to make a late EUSS application for both Child D and the parent.

Child E

Child E's mother is Moroccan. She subsequently moved to the EU and obtained dual French nationality, before moving to the UK in 2018. She is currently living and working in the UK with pre-settled status. Child E was born in the UK in 2020 and is currently placed in emergency foster care. Child E's mother assumed Child E was automatically a British citizen due to child E being born in the UK. The local authority will be required to assist with and support (and in certain circumstances to make) an application to the EUSS on behalf of Child E. In this example, Child E's mother's dual nationality requires consideration by the local authority because of residency rules of dual nationals.

Child F

Child F is a Spanish national living with his parents in Northern Ireland since October 2020 and is subject to a care order through a Health and Social Care Trust. The trust identified that Child F had no immigration status in the UK. The trust was required to assist Child F's parents with a late application on behalf of Child F to the EUSS.

7. Again, this is without prejudice to the IMA's judicial review against the Home Office as cited above