



Not so straightforward: experiences of children in care and care leavers in Greater Manchester affected by Brexit immigration changes

October 2019

Summary

In spring 2019, bus stops around Greater Manchester started to carry posters – with pictures of cups of tea on - advising European nationals in the city-region to apply to the EU Settlement Scheme. According to radio adverts launched at the same time, all you needed was a passport or ID card and to complete an online form. In contrast charities supporting people to apply during an earlier pilot were voicing concerns about the Scheme not working for particular groups – including the UK’s approximately 10,000 EU children in care and care leavers. We wanted to find out more about the experience of these children and young people in Greater Manchester. During September 2019 we supported local authorities with European national children in care and care leavers to access the EU Settlement Scheme through the Home Office’s EU Exit: ID Document Check app.

What we found is that the EU Settlement Scheme is designed for people leading ordered, uncomplicated lives who have the evidence to prove it; not children with disrupted life histories who have little ownership of documents that show their nationality or where they have been living. None of the children or young people we supported could make an application because they did not have the evidence required. Two of the young people were never likely to be able to get the required evidence. This is despite over half of them having been in the UK for over five years (the requirement for Settled Status) and in our legal opinion having good prospects of success if applying for British citizenship.

The experience of children and young people in Greater Manchester should sound alarm bells in central and local government. Without the introduction of a declaratory system (giving automatic status) and other safeguards (including access to legal aid and the Home Office waiving its £1,012 citizenship fee), many children in care and care leavers will face the full force of Hostile Environment policies when Brexit immigration changes mean they are in the UK unlawfully. Simple actions can prevent this, but the time to take them is now.

What’s the problem?

Brexit immigration changes mean all nationals of the European Union (EU), European Economic Area (EEA) and Switzerland who are in the UK need to proactively take steps to clarify their immigration status. This includes children, who make up [a third](#) of the UK’s EU/EEA/Swiss national population. Without taking action people will find themselves in the UK unlawfully (the date for when this will happen depends on any deal the UK makes to leave the EU). Government

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advertising has pushed people towards making an application to the EU Settlement Scheme which, if successful, results in a grant of Settled Status for EU/EEA/Swiss nationals who can prove they have been in the UK continuously for five years, and Pre-Settled Status for those who have been in the UK for less than five years. The Scheme went live across the country on 30 March 2019 following a smaller testing pilot.

The government has repeatedly talked about the EU Settlement Scheme being straightforward and simple:

"I am delighted to be publishing further details about how our EU Settlement Scheme will work and [how simple and straightforward it will be](#) for EU citizens and their families to secure their long-term status in the UK." - Rt Hon Sajid Javid MP (then) Home Secretary, 21 June 2018

Charities supporting people during the testing pilot have voiced concerns that for particular groups of EU/EEA/Swiss nationals the scheme is not accessible, and that for some people Settled Status/Pre-Settled Status may in any case not be their best immigration option.

Who does this affect?

Among groups identified as being at risk of missing out in Brexit immigration changes are children in care and care leavers. This is because without support from local authorities, as part of their corporate parenting duty, children and young people are unlikely to

- know about the need to regularise their immigration status
- know how to access the EU Settlement Scheme
- be able to find legal advice to understand their immigration options
- be able to acquire evidence of their nationality or length of residency in the UK (both of which are needed in order to make EU Settlement Scheme applications).

Accurate numbers for children in care and care leavers affected by Brexit immigration changes are hard to come by. Most local authorities do not routinely collect data on the nationality of the children they look after in an accessible way. In part this is because information on nationality is not required from local authorities by the Department for Education for its looked after children audits. Government estimates suggest there are [5,000 EU national children](#) in care in the UK - our research shows 700 of these children are in the care of local authorities in the North West of England. The government estimates a further [4,000 care leavers](#) across the UK are also EU nationals. Given the likelihood of under-recording, we believe around 10,000 children in care and care leavers could have their immigration status affected by Brexit.

Why is this important?

If these children and young people are not supported to successfully regularise their immigration status they will end up in the UK unlawfully. Not having secure immigration status risks life-long personal suffering, forcing people to live outside the formal economy and drastically limiting their potential. In turn this has a significant loss, and cost, to communities. When children get their status resolved, it unlocks their potential and benefits society. Without status they run the risk of falling on the wrong side of Hostile Environment policies that limit their access to healthcare, education and benefits and could go on to leave them destitute, detained or removed from the UK.

The timing is really important and puts the onus firmly on children's services and leaving care teams to take action. If children do not get their immigration status resolved while they are under 18 or young adults, not only does it mean their childhood is spent in uncertainty but legally it becomes significantly harder for them to resolve matters when they are older. Several Local Government and Social Care Ombudsman investigations have now found against local [Greater Manchester Immigration Aid Unit](#)

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authorities deemed to have acted in an inappropriate or untimely manner to support looked after children with their immigration issues, including in [London](#) and the [West Midlands](#).

Who are we and what did we do?

[Greater Manchester Immigration Aid Unit](#) (GMIAU) is a registered charity (1123908) based in the North West of England. For 30 years we have supported people in Greater Manchester by providing free, confidential, independent legal advice and representation on immigration and asylum. We currently support around 200 children and young people to access their rights through a combination of advice and representation in immigration law and public law, one-to-one support and group work.

Since October 2018 we have been working with children's services and leaving care teams across Greater Manchester to help them to meet the immigration needs of the EU/EEA/Swiss national children and young people they look after.

Based on this work – and the concerns being voiced from the testing pilot – we wanted to see how children in care and care leavers in Greater Manchester were navigating Brexit immigration changes. To generate a snapshot of this experience in September 2019 we set aside appointments with our senior solicitor for EU/EEA/Swiss national children in care and care leavers. Social workers and personal advisers were given a list of required information and documentation and asked to contact us in advance to check suitability and to book an appointment. The aim was that where appropriate all those attending would be able to make an EU Settlement Scheme application on the day.

What did we find?

The children and young people we saw identified as nationals of a range of countries in Central and Eastern Europe. Some were non-EU/EEA/Swiss nationals but were affected by Brexit because they had family members who were nationals of one of those countries. A number had parents of more than one nationality and others were of dual heritage.

While people's ages ranged from less than a year to 21 years old, more than half were in their mid to late teens. With the exception of a baby born in the UK, everyone was born outside the UK. Over half had been in the UK between five and 14 years and over a third had been in the care of children's services for over five years. We saw several groups of siblings. A number of the children and young people had additional vulnerabilities including safeguarding concerns and contact with the criminal justice system.

Everyone was in the care of children's services or accessing leaving care support. We did not get any referrals for children accommodated under Section 20 of the Children Act 1989 and this report misses their experience. We share concerns raised by others during the testing pilot that these children and other children in need risk falling through the cracks of local authority Brexit planning.

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Findings

- None of the children and young people we saw were able to make an application to the EU Settlement Scheme.
- Lack of evidence - both of nationality and continuity of residence in the UK – was the main reason they were unable to make applications.
- Two of the young people were advised to make a paper form application as they were never likely to get the evidence needed to make an online application.
- More than half had been in the UK for a long time – between five and 14 years.
- Our legal assessment was that most of the young people we saw would have good prospects of making a successful application for British citizenship (and could already have done so).
- For the majority of young people their local authority was not aware of their current immigration status and had not previously attempted to resolve any immigration issues. Over a third had been in the care of children’s services for over five years.
- More than half were in their mid to late teens and therefore likely to reach 18 by the end of any Brexit transition period. Unless a successful application is made this would leave them to be treated as adults unlawfully in the UK.
- A number of the young people had additional vulnerabilities including being at risk of child sexual exploitation, having contact with the criminal justice system or being in out of borough placements.

Lack of evidence

The biggest barrier to making an application to the EU Settlement Scheme was lack of evidence both of nationality and length of residence in the UK.

For evidence of nationality the Home Office app requires a valid passport or ID document. Social workers and personal advisers came to appointments with what was available: birth certificates, copies of birth certificates, expired passports, copies of expired passports, notes that valid passports did exist but were not in their possession. None of these can be used with the app or sent for checking using the postal service or ID document scanning sites.

Reasons why required evidence was not available included: the length of time young people had been in care, original documents being with parents, parents not being in the UK, parents not cooperating with children’s services, uncertainty from parents and/or social workers about what documents were needed or how to get them, embassies not supporting re-documentation, waiting times for appointments at embassies being prohibitive.

Where possible social workers and personal advisers were advised to get a valid passport so that an online application could be made. In two cases this was not appropriate or attempts at engaging with the relevant embassy had already failed. In those cases we contacted the Home

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Office to make an application using a paper form. The form is not available to download and has to be sent by the Home Office with some personal data already pre-filled in. In one case the paper form was sent immediately, in the other case the Home Office requested further information as to why the app was not being used and the necessary documents could not be acquired. While our experience of requesting paper forms is limited, we are concerned there is the potential for the Home Office to inconsistently gate keep access. Given the difficulties for children in care and care leavers in acquiring the documents needed for an online application, this is extremely relevant and needs monitoring.

There was also further work for social workers and personal advisers to do to support their children and young people with evidence of continuous residence in the UK. No one attended their appointment with documents that demonstrated how long they had actually been in the UK. Evidence is now being collected by way of letters from children's services, care orders, letters from health visitors, school records, doctor's records etc.

We are concerned that the Settlement Scheme is set up around what children have the evidence to prove, rather than enabling them to make the application that is in their best interests. Depending on the support they receive, some children in care and care leavers may end up applying for Pre-Settled Status because of evidence gaps when they have been in the UK long enough to apply for Settled Status. The differences between Pre-Settled and Settled Status should not be underestimated and include access to certain benefits, pathways to citizenship and needing to re-apply (with the potential that those who get Pre-Settled Status now become undocumented at that point).

Lack of available evidence of both nationality and residence will, for many of the children and young people we saw, be resolvable. But for all them it will take time. A number are now waiting several weeks for an available embassy appointment. The [Home office's report](#) of its pilot testing found applicants usually received decisions within days of an application being made. But it is getting to the point of being able to make an application where we found most children in care and care leavers get stuck.

Applications for British Citizenship

None of the children and young people had previously made an application for British citizenship. In our legal opinion, many of them had good prospects of making a successful application (either because they had automatic rights or could register rights to British citizenship). We discussed this with them alongside making applications to the EU Settlement Scheme.

We are concerned that so much of the Home Office's advertising around Brexit immigration changes has been for EU/EEA/Swiss nationals to make Settlement Scheme applications when, particularly for children, the most secure option would often be citizenship. Pre-Settled and Settled Status still leave children and young people subject to immigration control. Citizenship means they will no longer be subject to immigration control and the applications, fees, restrictions and uncertainties this brings.

However while applications to the Settlement Scheme are free, local authorities have to pay the Home Office a fee of £1,012 for every citizenship application, despite the actual cost of processing each application being [£372](#). Children in care and care leavers are therefore reliant on local authorities agreeing to square the budgetary circle that means over £1,000 per application going from local to central government. As Stuart McDonald MP [said in a parliamentary debate](#) in September 2019 –

“If Home Office officials demanded £1,000 from every mother leaving the maternity ward to secure their kid's citizenship, there would rightly be outrage, to charge [these] kids for theirs is as morally reprehensible.”

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One very stark consequence of this distinction came up several times for the children and young people we saw. One had a pending court date for a criminal offence, one was under ongoing investigation for a criminal offence and another had what the social worker described as “many brushes with the police”. Children in care and care leavers are [disproportionately likely](#) to end up in contact with the criminal justice system. Applications to the EU Settlement Scheme are checked against crime databases for evidence of “serious or persistent” offending and then assessed on a case-by-case basis for “suitability”. There is currently a worrying lack of clarity in Home Office policy about how this will apply to children and young people. If an EU/EEA/Swiss national child in care/care leaver is refused (Pre-)Settled Status because of offending, they will go on to be in the UK unlawfully. If that child/young person had been supported by their local authority to make an application for British citizenship when they became eligible, then any future convictions would remain a matter for the criminal justice system rather than affecting their immigration status and risk them losing their right to stay in the UK.

Local authority responses

Our interactions with social workers and personal advisers made clear the pressure they feel with Brexit to “do the right thing” by the children and young people they support. It also highlighted confusion about what the right thing is and intimidation about immigration. Comments included:

“I am getting worried about this now”

“I have concerns for this young lad and his security and future”

“She has a trip abroad planned and there’s a risk of her not being allowed back”

“Your email was a God send”

Inevitably this uncertainty has led to a lack of action such as not proactively ensuring children and young people have valid ID documents. For example one young person had been supported by their social worker for a year as an EU national with no valid ID document but no attempt had been made to apply for a valid document or to connect the young person with immigration advice.

We were also contacted for appointments to see children and young people who were not EU/EEA/Swiss nationals, who were not affected by Brexit related immigration changes, but who their support worker thought had some kind of immigration issue. The impetus to do something for Brexit had identified some of the wider group of children in care and care leavers with insecure immigration status who, too often, otherwise remain hidden.

What needs to happen now?

This report is a cautionary tale. It is about the creation of a new generation at risk of being thrown to the Hostile Environment. Comparisons have been drawn with the injustices faced by the Windrush generation (in the UK legally but struggling to prove it); the injustice of the EU generation will be that they are in the UK unlawfully. Government will not be able to say “we did not know” or “this was not intended”. If the lessons of this report, and others, are not acted upon it will end up with more young people struggling to access services, at risk of homelessness, facing immigration detention or being removed from the UK. This is the future for children in the care of local authorities in Greater Manchester – Our Children – without action now. Avoiding this requires joined up action from local and central government.

1. *Recommendation to the Home Office:* introduce a declaratory system which gives EU/EEA/Swiss nationals automatic rights to settled status and the option to register for a document to prove it. This is vital to prevent children in care and care leavers from becoming unlawfully in the UK.

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2. *Recommendation to the Home Office:* waive the fee for citizenship applications for all children in care and care leavers, to create a level playing field and prevent a cost-shift to local authorities.
3. *Recommendation to the Ministry of Justice:* extend legal aid to care leavers so that they can get independent legal advice on their Brexit immigration options. We welcome efforts to bring legal aid for separated children back into scope for immigration and citizenship matters. Given the complexities identified in this report we urge the government to widen this provision to include care leavers.
4. *Recommendation to the Home Office:* ensure publicity about Brexit immigration changes does not ignore people's rights to British citizenship and makes clear the differences between Pre-Settled Status, Settled Status and citizenship.
5. *Recommendation to the Department for Education:* review the relevance of nationality to the looked after children data audit, and support local authorities to put in place systems to identify children and young people affected by Brexit immigration changes. A "firewall" must be established between the Department for Education/local authorities and Home Office enforcement functions when collecting nationality information. Nationality data collection has to be about protecting the best interests of the child and fulfilling corporate parenting duties, not about the creep of Hostile Environment policies.
6. *Recommendation to Local Authorities:* use learning from Brexit to better support all groups of children in care and care leavers affected by immigration control. This requires local authorities to take five steps: (1) **learn** about how children and young people are affected by immigration control, (2) **identify** which of their children and young people are affected, (3) integrate immigration needs within care **plans**, (4) **take** urgent **action** to connect children and young people to immigration advice, and (5) **follow up** on immigration needs at review meetings.

For more information about this report and the work of GMIAU please contact amanda@gmiau.org

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