

By email:

Minister Kevin Foster MP  
Copied: Home Office SUG team

22 February 2022

Dear Kevin Foster MP,

**Problems for non-EU family member holders of EUSS status returning to UK with expired BRP/BRC**

Thank you very much for your [reply of 15 February](#) to [our letter of 6 January](#).

We appreciate the updates of the webpages

- <http://www.gov.uk/uk-residence-card>
- <https://www.gov.uk/uk-residence-card/replace>

and for the new page and guidance

- <https://www.gov.uk/euss-travel-permit>
- <https://www.gov.uk/government/publications/entering-the-uk-under-the-eu-settlement-scheme-and-eu-settlement-scheme-family-permit>

which all help to clarify the need for non-EU citizens to travel with a valid biometric residence card or family/travel permit, and how to apply for an EUSS travel permit when stuck abroad.

Thank you also for sending through guidance issued to carriers, in the form of the General Partner Pack, the Air Carrier Partner Pack and the Rail and Maritime Carriers Partner Pack.

These raise a question relating to another issue that has been reported to us many times, namely the ability for EU citizens protected by the Withdrawal Agreement to continue travelling to the UK with national identity cards rather than passports.

We consider the following two statements in the guidance to carriers to be contradictory:

- Main “What’s changed” slide: ***“ID cards are no longer be accepted for travel to the UK, unless the exceptions apply.”***
- Small print in Communication materials: *“Carriers are not currently required to check an EU, EEA or Swiss citizen’s immigration status, or their entitlement to travel on a national identity card, when deciding whether to bring them to the UK. They only need to check that they have a valid passport or national identity card.”*

We have had a large number of reports of people struggling to board or denied boarding when trying to return to the UK. They all had pending or granted EUSS status, therefore they fall within the stated exceptions and are entitled to travel with a national identity card. Below are some examples (our emphasis) where carriers clearly acted on the Home Office's main message in the carrier guidance. Some carriers appeared not even to check for exceptions, others insisted on proof of the exceptions:

*"Once I got to the gate to board my easyJet flight from Barcelona to Bristol and I showed my ID card, I instantly got told I could only travel with a passport and that I would be denied boarding." - November 2021*

*"I was returning back to the UK from Vienna with my EU National ID card. I was at the front of the line and was told I am not allowed to travel back to the UK without a passport since Brexit. I politely explained this was not the case and that as an EU pre-settled resident I am allowed to use my national ID to return to the UK at least until 2025. Once the staff checked more details on their airport computer, they requested I prove to them with some UK ID card my status. I explained to the staff there is no ID card for this purpose and that unlike my wife who is non-EU national my status is documented digitally. **The staff did not believe me and called the UK border which told him I needed to present something called share code.**" - November 2021*

*"I had to travel back to my home country for family reasons, using my national id card. On the return I wasn't allowed to board my flight because, according to the airline, **the HO had instructed a few days before that anyone travelling with id cards needed to show a document proving their EUSS status with the document linked to the id card.**" - November 2021*

*"We were not allowed to check in at Easyjet with an ID card. We were forced to buy an emergency passport." - December 2021*

We are disappointed that you answered our question Q5 ( "Will you provide an emergency exemption to allow all citizens with EUSS status who are stuck abroad without valid BRCs as a result of the above lack of / misleading information to travel back to the UK with immediate effect?") in the negative, pointing only to the existing legislation and guidance. Since we first wrote to you on 6 January 2022 about this issue, we have continued to receive reports of people stuck abroad with lost, stolen or expired BRCs, and we share some of them below (our emphasis):

### **1. BRC lost by DVLA**

*A Tanzanian national with settled status under the EUSS, married to a British citizen, with British child. The DVLA lost her BRC. She applied for a new one but has been waiting for months. She got wrong legal advice that she could travel.*

*She, along with her young child, was denied boarding by a Turkish Airlines flight from Istanbul to London in early January.*

*She has her passport and her letter from the Home Office confirming settled status but the airline won't accept it. She later chose to fly to Tanzania with her child as she knows no-one in Turkey and could not afford to stay there.*

*She remains trapped abroad, they are extremely distressed and her child has not been able to restart school. - January 2022*

## **2. BRC lost while abroad, incorrectly advised to apply for replacement BRP**

*"My husband applied for EUSS status at the end of 2019, he has a Certificate of Application but is still waiting to receive a decision. He had a BRC card for being married to an EU citizen. In September 2021 I went to Morocco on holiday with my husband and our two little kids and **he lost his BRC card there. We really didn't know that it would be a big problem for him to be back.** We applied by mistake for a BRP replacement Visa that of course has been refused as he had a BRC. They told us that he had to apply for a family permit. My husband applied for a family permit on the 5th of November and he still hasn't received it. I had to come back to the UK on the 12th of October with my kids because I had to go back to work. My kids haven't seen their dad in almost 4 months and this is really heartbreaking as they are just 3 and 2 years old. The oldest one is very attached to him."*

*We have spoken to him, his children are suffering under the separation, and his mental health is taking an impact owing to stress and lack of access to medication. - February 2022*

## **3. Expired BRC - did not realise it needed replacing**

*"Me, my wife and our three-year-old daughter are currently stuck in Johannesburg, South Africa.*

*We were meant to fly back on Tuesday evening but got refused entry to the plane by the Virgin Atlantic staff. They claim my wife doesn't have the correct paperwork to enter the UK.*

*We have been living in the UK since 2004. I have an [EU country] passport and my wife a South African passport, our daughter a British passport.*

*After Brexit we both applied for and received settled status in 2019. My wife originally had an EU family member residency card which expired in May 2021. **We never applied for a new one as all the information we had said that the UK immigration check app with a share code was the new way to prove your immigration status.***

*When covid restrictions were relaxed in October I booked tickets as we had not seen our family in four years. We checked the gov.uk site and all we could find was that the app was the way to go and that the BRP would be redundant in April 2022.*

*The virgin atlantic staff did not accept this and consequently my wife couldn't board the plane. I called the British high commission in Pretoria and they weren't interested. They referred me back to Virgin and said they decide who goes on their planes. I have looked at all the available information on gov.uk and can't see a reason why my wife would be sent back to SA which is the biggest concern for the Virgin staff.*

*I have been going back and forth with Virgin customer services for the past two days but they refuse to check the information again with immigration instead taking the word of their staff which dealt with us on Tuesday." - February 2022*

## **4. Expired BRC - did not realise it needed replacing**

*South African national with pre-settled status, as her husband is Hungarian. She travelled to South Africa to visit family and when she tried to get back to the UK from the airport in Johannesburg, she was denied entry by security. Her BRC card expired 4 days before she had to fly.*

*She was denied boarding by the firm hired by the airport to check passports. Security looked at her BRC and said she couldn't travel with an expired BRC. She explained she has pre-settled status and can share with them the code to check her immigration status. Security contacted the UK Consulate in Pretoria and sent them a photo of the expired card. **The consulate said they are not aware of an electronic version of the card.***

*She went back to her family, and then went to the UK Consulate in Pretoria. **She was given wrong advice first and sent a link to apply for a permit (which she did at her expense and attended a biometrics appointment).** Then she was denied that permit and was sent another link to a travel permit application, and is going through this process at the moment.*

*She has faced significant financial impact including a flight back to her parents' house and the incorrect visa application.*

*She told us "I cried for 24 hours straight after it happened, it's had huge impact on my mental health. I thought I'd never be allowed back in the UK. I know I have the right to be there but I feel helpless because it's all out of my hands. I'm just waiting and hoping they do allow me back in. It's really stressful. I have family over here, but imagine someone being on their own in this situation. It's awful.*

*I'm lucky to have an understanding boss who just wants me to come back safely."*

We therefore have the following follow-up questions and requests:

- Q1. Your letter says that you will further update the page <https://www.gov.uk/uk-residence-card/replace> to make it clear that the replacement of an expired BRC is free of charge. It currently still states that it costs £56 to apply, and a further £19.20 to give biometric information. When will this page be updated?
- Q2. Your letter says that "the profiles in the 'View and Prove' service are also being revised to clarify the document requirements to travel to and enter the UK by making a link to this GOV.UK guidance." We would be grateful if someone in the Home Office would inform us of when this occurs so we are able to review and provide feedback.
- Q3. Your letter said that "travel permits will be considered within three weeks of biometrics being submitted. Complex cases may take longer to conclude."
  - a. What does 'considered' mean in this context?
  - b. How long does it take to issue the travel permit to the individual from biometrics being submitted?
  - c. What would constitute a complex case?
  - d. Can any case where someone has status under the EU Settlement Scheme, and has not lost that through excessive absence, be considered complex?
  - e. Are there ways cases can be prioritised if there is an emergency? If so, how can someone utilise this service?
- Q4. Will you update your guidance to carriers to make it clear that **carriers should not deny boarding to any EU citizen travelling with a national identity card**, and that at most they can inform passengers that they may be refused entry at the UK border if they do not fall under one of the exceptions?

Q5. Will you reconsider our request to provide an emergency exemption to allow all citizens with EUSS status, or with a CoA for pending EUSS status, who are stuck abroad without valid BRCs to travel back to the UK with immediate effect, and to update guidance to carriers to allow them to accept a digital status proven via a share code as an alternative to a physical BRC?

Kind regards,

Monique Hawkins

Policy and research officer, the3million