



## HOUSE OF COMMONS

Rt Hon Caroline Nokes MP  
Minister of State  
Home Office  
Marsham Street

By email

29 August 2018

Dear Minister

We write as co-chairs of the all-party parliamentary group for Gypsies, Travellers and Roma (GRT). We note that the Home Office has released the EU Settlement Scheme: Statement of Intent (SOI) and that the Statement of changes in Immigration Rules (IR) have been presented to Parliament. This has raised a number of questions and concerns for us relating to fair access to settled status for migrant Roma communities living in the UK. We have already expressed some concerns in the course of the urgent question which you answered in the House of Commons on 12 July, and with the Right Honourable Lord Keen of Elie QC, Advocate General for Scotland, earlier in the year. Having now seen the SOI and the IR, we would be grateful if you would provide further clarification on some specific points and address our detailed areas of concern which are outlined below.

### Complexity and expansive nature of the 'suitability' criteria (criminality)

We welcome the government's commitment, as set out in the SOI and Draft Withdrawal Agreement, that there will be a high threshold for refusing settled status on the basis of suitability. Generally, we are of the view that further detail needs to be provided as to the procedural safeguards for findings of criminality or refusals on other policy reasons, including what evidence is required for a finding of serious or persistent criminality (e.g. convictions for what offences and/or frequency of convictions). Currently SOI (at [5.16]) states '*..we are not concerned here with minor offences, such as a parking fine.*' but further information is required, as well as a commitment to ensure that information about the threshold is made clear and accessible to would be applicants.

More specifically, we are gravely concerned that the commitment for setting a high threshold appears to be immediately undermined by the inclusion of EU15(c) in the IR which states:

*EU15. An application made under this Appendix will be refused on grounds of suitability where any of the following apply at the date of decision:*

*[...]*

*(c) The applicant is subject to a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights under Directive 2004/38/EC*

In our view the refusal of settled status on the basis of non-exercise of rights is not in reality setting a high threshold for suitability: Non-exercise or misuse of rights is not criminal behaviour, much less could it be described as 'serious or persistent criminality'. It is not clear why EU15(c) has been included and we would be grateful for an explanation of the reasoning for its inclusion.

Further, we question whether inclusion of the EU15 (c) provision is permitted by the Draft Withdrawal Agreement.

#### Demographic scope of pilot project

We understand that there will be a phased implementation with a pilot settled status scheme which will be limited to students and staff at 3 Universities in Liverpool and 12 NHS Foundation Trusts. We are concerned that the demographic scope of this pilot could be too narrow and less likely to expose any issues for those with lower literacy, who are digitally excluded or generally have barriers to official processes such as the settled status scheme. Please confirm that you will be sharing data from pilot settled status scheme, what format that data will take and what steps you are taking to ensure that accessibility can be properly evaluated and adapted to safeguard accessibility for Roma?

#### Accessibility of the settled status application process

The SOI commits to the application process being primarily digital (at [4.4]). Given the lower levels of literacy and digital exclusion within Roma communities, this is an area of concern for us. We note the reference in the SOI to the '*assisted digital application process for those who need assistance to complete the online application process*', and that '*Consideration is also being given to the particular circumstances in which the provision of a paper application form may be appropriate.*'. In line with Public Sector Equality Duty obligations, the Roma community need to be consulted on how to ensure that the application process is accessible and further information given on what provision will be made for those who are digitally excluded by way of assisted digital support and/or paper channels.

#### Evidential requirements- proof of identity and nationality

Obtaining the required ID could be a major barrier to Roma community applying for settled status, with both financial and practical barriers. The SOI (at [4.8]) states that '*The Home Office may accept alternative evidence of identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or to compelling practical or compassionate reasons.*'. Will you provide clear guidance on when the ID requirements will be waived and whether provisions for children who apply at the same time as their parents will be exempt from the passport or national identity card requirement and be able to provide evidence such as a birth certificate?

#### Evidential requirements for continuous residence

We are concerned that evidential requirements for 5 years continuous residence in the UK does not take into account the cultural, social and economic lives of Roma individuals and communities. We welcome the recognition of the possible difficulties in obtaining the evidential requirements in the SOI (at [5.6]) - '*We recognise that some applicants may lack documentary evidence in their own name for various reasons, and we will work flexibly with applicants to help them evidence their continuous residence in the UK by the best means available to them.*'. It would be useful to have confirmation whether, for those who are unable to provide any of the 'preferred evidence' from the draft list of evidence (SOI, Annex A), provision of any of the 'alternative evidence' list will be sufficient. We are particularly interested in whether a letter from a charity is sufficient evidence if dated for 5 year period of 'interactions', as this may be the most accessible for

some of the more vulnerable and marginalised applicants, who should be afforded equal access to the process.

#### Fees for child applicants

The SOI states that children will pay 50% of the adult application fee- £32.50 rather than £65.00. 'Children' for the purposes of the fee reduction must be under 16 (at [4.6]). However, a '*child for the purposes of eligibility of a non-EU citizen close family member is defined as under-21 and potentially 21 or over if they are a dependent child*' (at [6.6]). Our view is that the Home Office should be treating applicants in terms of the reduced child fee as those who are under 18. This is the definition of a child set out in the Children Act 2004 as well as international treaties that the UK is a party to, including the United Nations Convention on the Rights of the Child. Will the Minister reconsider the proposal and apply the reduced fee to those under 18 years of age?

#### Equality Impact Assessment

As outlined in this letter there are various concerns about the accessibility of the settled status scheme. Please also confirm that the Home Office be conducting equality impact assessments of the scheme generally, and the evidential requirements specifically? Conducting EIAs is important to ensure compliance with the Public Sector Equality Duty.

We look forward to your response to the points raised in this letter.

Yours sincerely



Kate Green MP



Baroness Janet Whitaker  
Co-chairs, all party parliamentary group for Gypsies, Travellers and Roma