

European Citizens' Rights and Settled Status

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A law firm contracted by the European Delegation to provide legal and policy advice to the Delegation in the UK and the EU27 Embassies and to provide information services to local community organisations

Information correct as of 26 February 2020



Brexit and the EU Settlement Scheme



- EU free movement law will cease to apply on 01 January 2021
- This has necessitated a scheme to provide lawful residence status of EU citizens under the UK Immigration Rules (domestic law)
- This is what is known as the **EU Settlement Scheme**
- This scheme to cover all those EU/EEA/Swiss citizens and family members living in the UK before **31 December 2020**

EU Settlement Scheme



The EU settlement scheme

- Applications under the EUSS are for one of two statuses:
 - **Settled status** - lived in the UK for 5 years when they apply
 - **Pre-settled status** is for who have not lived in the UK for 5 years by 30 June 2021
- Be aware of the difference between the **residence deadline** and the **application deadline**
- The deadline to apply is **30 June 2021** which gives discretion as to the date of application



The EUSS

- The application is residence based application, the **Home Office (HO) will not ask** for:
 - Evidence of exercising '*treaty rights*' in most situations
 - Evidence Comprehensive Sickness Health Insurance (Students and Self-Sufficient persons)
- In essence this means that the HO will look at how long you have been resident in the UK for and not what you have been doing while resident in the UK



The EUSS

- **ALMOST ALL EU/EEA/ SWISS CITIZENS** AND FAMILY MEMBERS WHO WANT TO REMAIN LIVING IN THE UK **HAVE TO APPLY** UNDER THE EUSS!



- Those who have a PR documents need to apply
- Non-EU family members need to apply
- There is an exemption for those who hold Indefinite Leave to Remain (ILR). But... they can and probably should apply as well
- Any EU citizen who has become British does not need to apply
- Irish citizens are not required to apply but can do so if they wish
- Children need to make their own applications unless British

Family members

- Family members of an EU citizen who can enter the UK anytime:
 - Spouse
 - Civil partner
 - Durable partner
 - Dependent children
 - Dependent parents
- BUT! The relationship must have existed on 31 December 2020 and at the time that they enter the UK (except future children)
- All other (extended) family members must be residing in the UK by 31 December 2020



Key steps

- To apply there are **3 things** that you must do:
 1. Make a valid application by proving **identity and nationality**
 2. Prove **length of residence** in the UK
 3. Undergo a **criminality check** (for over 18s)
- The application process is mainly online
- Applicants who are unfamiliar with the online process can contact the Home Office and ask for a paper application form

Apply to the EU Settlement Scheme (settled and pre-settled status)

Prove your identity

You will need:

- an email address and phone number
- your current passport or national identity card, if you are a European Economic Area (EEA) or Swiss national
- your current passport or UK residence card with a biometric chip, if you are not an EEA or Swiss national

Read the [guidance on staying in the UK after it leaves the EU](#) to check if you qualify and for information on this service.

Prove your identity

Log in

You can log in and continue with your application if you have already proven your identity using the iPhone or Android app or online.

Log in

Applying from inside the UK

If you are from a country in the EEA or Switzerland

You can use either:

- your passport
- your national identity card

If you are from a country outside the EEA or Switzerland

You can use either:

- your passport
- your biometric residence card or permit

Applying from outside the UK

If you are from a country in the EEA or Switzerland

You can use either:

- your passport
- your national identity card with biometric chip

If you are from a country outside the EEA or Switzerland

You must use your biometric residence card

[Countries in the EEA](#)

Continue

Identity

- Identity is verified by a **valid passport** (for all) or
 - Valid national ID card (for EU citizens)
 - Valid Biometric Residence Permit (for Non-EU citizens)
 - Valid Biometric Residence Card issued under the EEA Regulations (for Non-EU citizens)



- An App will check biometric chips and transmit identity data to the HO (only available on Android, and iPhones 7 and above)
- If you cannot use the App then there are scanning locations or you can send the document to the HO

Identity

iPhone or Android app

- Use the Home Office's EU Exit: ID Document Check iPhone or Android app to scan your document details and take a photo of yourself.
- It is unlikely you will need to post us your document.
- If you do not have a suitable phone, you can use a friend or family member's. You can then save and complete your application on any device.
- If you are an EEA or Swiss national you can use your passport or a national identity card with a biometric chip.
- If you are not an EEA or Swiss national you must use your biometric residence card.

By post

- Enter your document details.
- Upload a digital photo.
- Post your identity document at the end of your application.
- If you want to apply whilst you are outside the UK, then you cannot use this option.
- If you are an EEA or Swiss national you can use your passport or a national identity card.
- If you are not an EEA or Swiss national you can use your passport or a biometric residence card or permit.

By going to an identity document scanning location

- This must be done at the start of your application.
- Go to an identity document scanner location to use the app on an Android device available at the location.
- If you are an EEA or Swiss national you must use your passport.
- If you are not an EEA or Swiss national you must use your biometric residence card.
- After using the app, you will need to complete your application online. You will not be able to do this at the identity document scanning location.
- You will get help to scan your document, but you will not be able to get any help or advice with the rest of your application.

How will you have your identity document checked?

- iPhone or Android app
- By post
- Go to an identity document scanning location

Continue

Identity



2.9 ★★★★★
36 Ratings

No.3
Utilities

4+
Age



Take an image of your passport



Place the phone on your passport



Scan your face



Take your photo



Identity

- Face-to-face services available in certain locations to allow applicants to access the App or a visa centre appointment
- Alternatively, documents can be posted to the HO
- The HO 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*'
- HO policy on alternative evidence of identity is likely to be applied restrictively and so....
- Those with identity documents coming up renewal for should consider renewing in good time to ensure they can meet the EUSS deadline

Progress

Apply to stay in the UK after it leaves the EU

You need to complete every section.

Identity

COMPLETED

[View answers](#)

[Application type](#)

[Residence in the UK](#)

[Criminal convictions](#)

[Digital photo](#)

Submit answers

Validity:
Application type

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Do you have dual nationality?

This means you have more than one current nationality.

Yes No

[Continue](#)

[Save and return later](#)

Do you have any previous nationalities?

Countries where you used to have citizenship but don't anymore.

Yes No

[Continue](#)

[Save and return later](#)

Validity:
Application type

Do you have a valid UK permanent residence card?

Check the 'Type of document' section on the card. If it says 'Registration certificate' answer 'No' to this question.



Yes No

[Continue](#)

[Save and return later](#)

Validity:
Application type

Have you ever been granted indefinite leave to remain (ILR)?

ILR is a type of immigration status you would have applied for. You'll usually have a stamp in your passport if you have it.

By answering yes to this question, you confirm that your ILR status is valid. This means you have not:

- been out of the UK for a continuous period of more than 2 years since getting ILR
- lost your ILR status for any other reason for example, you were deported

Yes No

[Continue](#)

[Save and return later](#)

Validity: Application type

Applying as a family member

As the national of a country outside the EEA or Switzerland, you can only apply for status based on your relationship to an EEA or Swiss family member (your 'sponsor').

To complete your application, you will need:

- evidence of your relationship to your sponsor
- your sponsor's application number, if they have one

If we can't confirm your residence, you'll also need evidence that you have been resident in the UK.

It'll be quicker to process your application if your sponsor applies before you.

▶ [If your sponsor isn't applying or hasn't applied yet](#)

Has your sponsor applied for settled status?

Yes

No

[Add another sponsor](#)

[Continue](#)

[Save and return later](#)

Validity:
Application type

Do you have a UK residence card with a biometric chip?



Your document will say 'residence card' at the top.

Yes No

Card number

For example, RE1234567

Expiry date

For example, 31 3 2024

Day Month Year

<input type="text"/>	<input type="text"/>	<input type="text"/>
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[Continue](#)

[Save and return later](#)

Check your answers

Are you in the UK
now?

[Change](#)

Address

[Change](#)

Are you known by any
other names or have
you been known by
any other names in the
past?

[Change](#)

National Insurance
number

[Change](#)

Your National
Insurance number

[Change](#)

[Continue](#)

[Save and return later](#)

Residence: "continuous" meaning

- In most situations you will be aiming to achieve **5 years** of **“continuous residence”**; this has a specific legal definition
- The applicant **must not have been absent** from the UK for more than 6 months in any 12 month period otherwise continuous residence is broken (in one stretch or cumulatively)
- **One period of absence** of more than 6 months but which do not exceed 12 months are **permitted** for an important reason:
 - childbirth
 - serious illness
 - study
 - vocational training
 - overseas posting
- Any period of compulsory military service is permitted

Residence: establishing

What status you can apply for

The status you can apply for normally depends on how long you have been living in the UK.

We will tell you the status you can apply for and, in some cases, we may ask you to upload some evidence.

You can then submit your application.

[Continue](#)

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How long have you lived in the UK?

5 years or more

Less than 5 years

[Continue](#)

[Save and return later](#)

Residence: establishing

- The online form will **automatically check HMRC and DWP** for evidence of residence based on employment, self-employment, or benefits using the applicant's NI number (if provided)
- The HO will not check any data beyond an '*ongoing relationship*' and will be limited to going back 7 years
- **Gaps** in records can be **supplemented with additional proof** of residence
- A non-prescriptive list of acceptable residence evidence
- The applicant can submit copies of any required evidence

Residence: establishing

Apply for settled status

You can apply to stay without a time limit (known as 'settled status') when you have been continuously resident in the UK for 5 years or more.

Being continuously resident generally means you have not been absent from the UK for more than 6 months in total (in a single period of absence or more than one) in any 12-month period.

We need evidence of your residence in the UK

We have not been able to find tax or benefits history that confirms your residence in the UK. This may be because there are gaps in our records or we may not be able to match our records to the information you have given.

What you need to do

To apply for settled status you will need to upload evidence of your continuous residence.

[Continue](#)

[Save and return later](#)

[I have not been continuously resident in the UK for 5 years.](#)

Residence: establishing

Complete your application

You need to provide evidence for settled status.

How to provide evidence

You need to provide evidence of residence for at least 6 months a year for 5 years in a row. You only need evidence for the periods where we could not confirm your residence.

Read the guidance about [what you can use as evidence](#).

▶ [Settled status with less than 5 years residence](#)

How much evidence you can provide

You can upload a maximum of 10 documents. In most cases residence can be proved with far fewer than 10 documents.

▶ [How to use as few documents as possible](#)

Residence: establishing

Add your residence evidence

1. View the [years you need to provide evidence for](#).
 2. Read the guidance about [what to use as evidence of your residence](#).
- [Applying for settled status with less than 5 years' continuous residence](#)

View or upload residence evidence

Use evidence from your previous applications

If you have uploaded evidence as part of a previous application, you do not have to upload the same evidence again. Check the box if you would like a caseworker to review evidence from any previous applications you have made.

Use evidence from previous applications

If you cannot provide evidence

You can tell us if you cannot provide evidence for some residence periods, or at all. A caseworker will contact you after you submit your application and help you find ways to prove your residence.

I can't provide evidence

I confirm the documents uploaded are correct to the best of my knowledge

Criminality

- The HO intends to identify **serious** or **persistent offenders**, or
- Anyone who poses a **security threat**
- A declaration will be required by the EU citizen or family member aged 18 or over
- Criminality can be highly complicated but it is important that each case is considered on the individual's specific background

Have you ever been:

- convicted of a criminal offence
- arrested or charged with an offence that you are on trial for or awaiting trial

This includes offences in the UK or any other country

Yes No

▼ [Help with this question](#)

[Read the guidance](#) if you are unsure what offences you need to declare.

[Continue](#)

[Save and return later](#)

Criminality

[◀ Back](#)

Have you ever supported, encouraged or been involved in:

- terrorist activities
- war crimes, crimes against humanity or genocide
- an extremist organisation

Yes No

[Continue](#)

[Save and return later](#)

Declaration

Before continuing you need to confirm that:

- the documents you have uploaded are genuine to the best of your knowledge
- you are eligible and have been resident in the UK for the period you apply for - if you disagree with our data
- your photograph is an accurate likeness of you

We will process your information as detailed in our [terms and conditions](#) and [privacy policy](#).

If we find a mistake in your application, we will contact you to help you correct this. If your application meets the criteria under the EU Settlement Scheme you will be granted status.



Your application may be refused and you could be prosecuted if you deliberately provide false information or documents.

Granted: the status

- For EU citizens, evidence of pre-settled or settled status will be in **digital form**
- Accessible via ID number and date of birth (and a single-use code security code)
- The idea is that that holder of status updates their digital profile with changes to **phone number, email, address, name**
- They should also notify the HO if they change their **ID document** but at the moment they need to send the ID to the HO
- **Non-EU citizen family members** holding pre-settled or settled status will be issued with a **Biometric Residence Card** (unless they already hold one which remains valid)

Granted: Digital status

- www.gov.uk/view-your-settled-status

[Home](#) > [Visas and immigration](#) > [EU, EEA and Commonwealth citizens](#)

View and prove your settled or pre-settled status

Use this service to:

- view your settled or pre-settled status
- get a share code to prove your status to others, for example employers
- update your personal details, for example your passport number or email address
- check what rights you have in the UK, for example the right to work or to access public funds

Having access to public funds means you can apply for benefits and use services like the NHS.

If you're a citizen of the EU, Iceland, Liechtenstein, Norway or Switzerland, you can still show your identity documents to prove your rights in the UK until 31 December 2020. You do not have to use the

Related content

[Apply to the EU Settlement Scheme \(settled and pre-settled status\)](#)

[Prove your right to work to an employer](#)

[Private renting](#)

Granted: Settled status

- Settled status is a indefinite status that **will not expire**
- It's indefinite **subject** to limited **conditions**
- Settled status may allow the holder up to a **5-year absence** (4 for Swiss nationals) from the UK before the right to live in the UK is lost
- Holders of settled status *may* lose it if they commit a **criminal offence** (they may also face deportation action)
- Holders of settled status can apply for British ('naturalisation') citizenship but are *not* required to do so to retain lawful residence

Granted: Pre-settled status



- Pre-settled status is a limited status that will **expire** after 5 years
- You will need to **maintain continuous residence** and, where relevant, their family relationship, in order to apply for settled status later
- The **same rules on continuous residence apply** to holders of pre-settled status and can be broken in the same way
- Holders of pre-settled status **must apply for settled status** before the expiry of their pre-settled status to continue living in the UK
- Holders of pre-settled status **may lose** this status if they **commit a criminal offence** (they may face deportation action)

Refusals / Wrong outcomes

- Currently, very few cases are actually 'refused' (suitability)
- More likely is that a settled status applicant will receive pre-settled status because of a lack of residence evidence
- If this happens, before 31 December 2020 you can:
 - **Reapply** to remedy the refusal ground
 - Apply to **appeal** the decision (subject to primary legislation)
- An appeal is made to the immigration tribunal at a cost of £80 / £140 (depending on an paper or oral appeal)
- A non-EU/EEA/Swiss family member may need to submit an appeal if they are refused on an eligibility basis

Missed deadlines



- If you **miss** the 30 June 2021 **deadline** you can apply late
- But only with a '*good reason*' for the delay
- You will have a reasonable period to apply
- But an **interruption** to **rights and entitlements** will occur
- SO...

...apply before the 30 June 2021 deadline!



Further information



Available EUSS assistance

- **EU Settlement Resolution Centre** - call 0300 123 7379 between Monday to Friday (excluding bank holidays), 8am to 8pm, Saturday and Sunday, 9:30am to 4:30pm
- **Assisted Digital Service** - call 03333 445 675 or text "VISA" to 07537 416 944
- **Identity Scanning Locations** - search [gov.uk](https://www.gov.uk) for a list of Local Authority locations
- The HO has funded 57 organisations to assist vulnerable applicants with their EUSS applications for free, search on: www.eurights.uk
- Detailed slides on www.seraphus.co.uk

Remember to apply,
apply before the deadline,
and spread the message!

Thank you!

