***EU Citizen Rights and Settled Status – What you need to know***

 *(This document has been prepared for the meeting “EU nationals – understanding your options post-Brexit” organised by Islington In Europe with Wilsons Solicitors and Wesley Gryk Solicitors, supported by Islington Council, on Wednesday the 2nd December 2020. The information contained is up to date as of 2nd December 2020 but is subject to change in the run up to the end of the transition period. Please note that it is always important to check that you are using the latest version of any relevant form or guidance linked below.)*

***Introduction***

* The British Government has guaranteed the rights of EU citizens and their families who are living in the UK prior to the 31st December 2020 to remain living and working in the UK after that date. **EU citizens currently residing in the UK should be reassured that you will not be required to leave the UK after the end of the transition period**. However, you will need to apply to the Home Office for a new type of immigration status under the **EU Settlement Scheme**.
* You have until **30 June 2021** to apply.
* In the meantime you can continue to live in the UK and come and go as you please using your EU passport or identity card. You continue to have the right to work, claim benefits, and access public services as you do now.
* Note that **Irish citizens** and EU nationals who have been previously granted a status called **Indefinite Leave to Remain [ILR]** do not need to apply for the new status. People who have lived in the UK for a very long time may have been granted Indefinite Leave to Remain in the past. This could be in the form of a letter or a stamp in a passport.
* EU nationals who have become **British citizens** cannot apply for the new status and do not need to**.** They are automatically entitled to remain.
* All other EU nationals must apply before the deadline even if they have been living in the UK for many years or have been issued with a **permanent residence card** in the past.
* EU nationals coming to the UK after 31st December 2020 will be subject to **UK immigration control**. Those who do not have pre-settled status, settled status, Indefinite Leave to remain, or British Citizenship will need to qualify under a category of the UK Immigration Rules.

***Making an application for settled or pre-settled status***

* To make an application EU nationals and their family members **apply online.** Here is a link to where you can start the online application form;

<https://www.gov.uk/settled-status-eu-citizens-families>

* Most will find it simple to do and not need any help.
* Before making the application online you should gather the following documents and information:
	+ A valid passport or national identity card. **If you do not have either you should obtain one before applying**.
	+ An email address
	+ Your address in the UK
	+ Your National Insurance number
* There are two steps in the process:
	+ **Step 1 – Confirm identity**. This is usually done by scanning the passport and taking a digital photo through an **App** (called the *EU Exit: ID Document Check*). You can use a friend’s device – it does not need to be yours. Here is a link to guidance on how to find and use the App <https://www.gov.uk/guidance/using-the-eu-exit-id-document-check-app>
	+ Alternatively you can chose to post your passport to the Home Office after Step 2.
	+ **Step 2 – complete the online form.** This will ask for your personal details, address, National Insurance number, and whether you have a criminal record. It will also ask if you have previously been issued with a Permanent Residence Card (which some EU nationals might have if they have lived here for 5 years). If you have such a card you should provide the reference number.
	+ Once the information has been provided the online system will **automatically** check **National Insurance** records to see if there is a record of you residing in the UK.
	+ If the National Insurance records show that you have been **residing** in the UK for **5 years** you will be given **settled status** (Indefinite Leave to Remain) with the right to reside permanently in the UK.
	+ **5 years’ residence** means that for 5 years in a row you have been in the UK for at least 6 months in any 12-month period. Exceptions include one period of up to 12 months for an important reason (for example, child birth, serious illness, study, vocational training or an overseas work posting).
	+ If you have been living in the UK for **less than 5 years** you will be given **pre-settled status** (Limited Leave to Remain) and you will be able to apply for settled status in the future once you have lived in the UK for 5 years.
	+ Where the National Insurance records show that you have resided here for **less than 5 years** you are invited to either **accept pre-settled status** or confirm that you want to be **considered** **for Settled Status**. You will then be invited to upload or post in documentary evidence to show that you have resided in the UK for 5 years. You may also be asked to provide this evidence if there are gaps in your National Insurance records or no evidence that you have resided here at all if asking only for pre-settled status.
	+ There is a large range of documents that the Home Office will accept as **evidence of residence**. See the Guidance here; <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>
* The settled or pre-settled status that is given comes in the form of a **digital status** – there is no stamp in a passport or card issued (other than to non-EU family members). Your new status under the scheme will be recorded electronically on Home Office systems. You can view your status as soon as you get a decision on your application. This is where you can view it and where you can also use it to prove your right to work to an employer post Brexit;

<https://www.gov.uk/government/publications/eu-settlement-scheme-view-and-prove-your-rights-in-the-uk>

<https://www.gov.uk/prove-right-to-work>

***Rights with settled or pre-settled status***

* Your rights with settled or pre-settled status will be virtually identical to what you have now including:
* Working in the UK
* Using the NHS
* Enrolling in education or continuing your studies
* Accessing public funds such as benefits and pensions, if you are eligible for them
* Travelling in and out of the UK
* Once you have settled status you will be able to spend up to **5 years in a row outside the UK** without losing your status.
* If you have pre-settled status, you can spend up to **2 years in a row outside the UK** without losing your status. However, you will need to maintain your continuous residence if you want to qualify for settled status so should not remain outside for more than 6 months in a year if you wish to apply for settled status.

***Family members***

* **Family members** include a spouse or civil-partner; child, grandchild or great grandchild under 21 years of age; a dependent child over the age of 21; a dependent parent, grandparent or great grandparent; and in some circumstances other dependent relatives.
* If a parent is granted either settled or pre-settled status any **child** living with you can apply to be granted the same status regardless of how long they have lived in the UK. It is best if the parent applies first and then applies for the children.
* **Non-EU family members** can also join or remain with you. The rules are a little more complicated and summarised by the Home Office here: <https://www.gov.uk/settled-status-eu-citizens-families/not-EU-EEA-Swiss-citizen>

***Applying to become British***

* Once you have had settled status, indefinite leave to remain or a permanent residence card (issued under European Law) for 12 months you may qualify for **naturalisation** as a British citizen. You do not have to wait 12 months if married to a British citizen. To naturalise you need to meet residence, character, [English,](https://www.gov.uk/english-language) and [knowledge of life in the UK](https://www.gov.uk/life-in-the-uk-test) requirements. The good character requirement includes not being in breach of immigration laws in the last 10 years (this may be an issue for EU nationals who were in the UK as students or self-sufficient but did not have Comprehensive Sickness Insurance). Home Office Guidance is available here; <https://www.gov.uk/government/publications/naturalisation-as-a-british-citizen-by-discretion-nationality-policy-guidance>
* You will also need to check whether, under the law of your home country, you are entitled to dual nationality.
* The fee is £1,330. Becoming British gives you the right to vote in all elections and stand as a candidate in some elections. You will also cease to be subject to immigration control which gives protection against deportation.
* Further details, and to start the online application, can be found here; <https://visas-immigration.service.gov.uk/product/nationality-an>

 ***“Permanent Residence Card” option - if you want to naturalise as quickly as possible as a British citizen***

* Under European law, if you already have lived in the UK for five years as a European national exercising your rights as a ‘qualified person’, or as the family member of such a European national, you may already have acquired **permanent residence** in the United Kingdom under European law. Broadly speaking to be a ‘qualified person’ you will have had to have been a worker, self-employed, a student or self-sufficient (the latter two with comprehensive sickness insurance).
* The residence requirements for naturalisation applicable to individuals not married to British nationals is that they need to have been living legally in the United Kingdom for five years, of which *at least one year* must be with settled status, indefinite leave to remain or permanent residence.
* This means that if you have been living in the UK for *more than 6 years* and you wish to apply to naturalise as a British citizen without waiting 12 months after getting settled status you should consider applying for a document confirming your permanent residence. The fee is £65 and there is an online application. Evidence of how you were a qualified person for the five years will be required; [*https://www.gov.uk/government/publications/apply-for-a-permanent-residence-document-or-permanent-residence-card-form-eea-pr*](https://www.gov.uk/government/publications/apply-for-a-permanent-residence-document-or-permanent-residence-card-form-eea-pr)

***Children – are your children British?***

* If you get settled status, any **children** subsequently born in the UK while you are living here will automatically be British citizens. If you get pre-settled status, any child born in the UK will be automatically eligible for pre-settled status.
* Some EU nationals born in the UK may be automatically British, or have an entitlement to register as British without knowing it. Nationality law is complex but broadly speaking;
	+ A **child born in the UK before 2October 2000** to an EEA National parent who was exercising EC Treaty Rights (e.g. working, self-employed, self-sufficient, student) at the time of the birth was born British.
	+ A **child born in the UK between 2October 2000 and 30 April 2006** to an EEA national parent was born British if the parent had Indefinite Leave to Remain in the UK at the time of the birth.
	+ A **child born in the UK to an EEA national after 30April 2006** will be born a British citizen if at the date of the birth one EEA national parent had been in the UK exercising EC Treaty Rights for more than 5 years, or has Indefinite Leave to Remain, or has settled status.
* Any children born British can apply for a **British passport**.

<https://www.gov.uk/get-a-child-passport>

* A child of an EEA national who did not become a British citizen at birth may have an entitlement to be **registered** as a British citizen if one of their parents has since become ‘settled’ (form MN1) or the child has lived in the UK since birth and is 10 years or older (form T). The fee is £1,012.

<https://www.gov.uk/government/publications/application-to-register-child-under-18-as-british-citizen-form-mn1>

<https://www.gov.uk/government/publications/application-to-register-as-british-citizen-form-t>

***Assistance available for EU nationals***

* Local support is available through Islington Council and partners detailed on their website here; <https://www.islington.gov.uk/birth-death-marriage-and-citizenship/nationality-and-citizenship/advice-for-eu-citizens>
* There are numerous community organisations funded by the Home Office to provide assistance to vulnerable EU nationals; <https://www.gov.uk/government/publications/eu-settlement-scheme-community-support-for-vulnerable-citizens>
* You can call the Home Office **EU Settlement Resolution Centre;** Telephone: 0300 123 7379, Monday to Friday (excluding bank holidays), 8am to 8pm Saturday and Sunday, 9:30am to 4:30pm. You can also contact them online to ask questions; <https://eu-settled-status-enquiries.service.gov.uk/start?hof-cookie-check>

***Other sources of information***

* UKCEN – volunteer run free information and legal advice
	+ <http://www.ukcen.co.uk/>
* The 3 Million – campaigning for the rights of EU citizens
	+ <https://www.the3million.org.uk/settled-status>
* Delegation of the European Union in the UK – FAQs and videos
	+ https://eeas.europa.eu/delegations/united-kingdom/69562/residing-uk-and-eu\_en
* Here for Good – free immigration advice
	+ <https://www.hereforgoodlaw.org/>
* Mayor Of London – EU Londoners Hub
	+ <https://www.london.gov.uk/what-we-do/eu-londoners-hub>
* Islington In Europe
	+ <http://www.islingtonineurope.org/>

**Legal Sources**

The main Immigration Rules applicable are;

Appendix EU

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu>

Appendix EU (Family Permit)

<https://www.gov.uk/guidance/immigration-rules/appendix-eu-family-permit>

***Contact details for the law firms providing the presentation***

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