

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 Wilson’s Solicitors and Wesley Gryk Solicitors, supported by Islington Council, at Islington Town Hall on Thursday the 6th June 2019. The information contained is up to date as of 6th June 2019 but is subject to change in the run up to Brexit. 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 to remain living and working in the UK after Brexit.
- All EU, EEA and Swiss citizens and their family members will be able to apply to the **EU Settlement Scheme** to continue living in the UK and will have until 31 December 2020 to apply. (If the Withdrawal Agreement is signed there will be a grace period to apply until 30 June 2021.) The scheme has been fully open for European nationals and qualifying family members in the UK since 30 March 2019.

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

- In a no deal scenario those resident in the UK prior to whatever date is designated as the Brexit date will still be eligible to apply under the EU Settlement Scheme.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/762222/Policy_paper_on_citizens_rights_in_the_event_of_a_no_deal_Brexit.pdf

The App and the application form

- You apply **online** starting with an **App** to confirm your identity and start your application. At this stage the App only works on Android devices. You can use someone else’s if you don’t have one or go to a Home Office scanner location. There is no fee for this application.

<https://www.gov.uk/guidance/using-the-eu-exit-id-document-check-app>

<https://www.gov.uk/government/publications/eu-settlement-scheme-id-document-scanner-locations/locations-offering-chip-checker-services>

- This video shows you the questions asked.
<http://www.ukcen.co.uk/video-showing-the-application-process/>
- When applying for settled status you will be asked about your **criminal** history in the UK and overseas. If you have only been convicted of a minor crime you will still be eligible for settled or pre-settled status. It is very important that you answer questions in this section fully and honestly since, with respect to offences which are not serious ones, a dishonest answer is more likely to have a negative impact on your application than the conviction or other action taken against because of the offence.
- If you have been **residing** in the UK for 5 years you should be given **settled status** with the right to reside permanently in the UK. Your National Insurance number will be used to confirm residence. If there are gaps in your record you

will be asked by the Home Office to send evidence of residence during **those** gaps when you apply.

<https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>

Five 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** and be able to then apply for settled status once you have lived in the UK for 5 years.
- Your settled or pre-settled status comes in the form of a **digital status** – no stamp in a passport or card. Your 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.

<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>

Your rights with settled or pre-settled status

- Your rights with settled or pre-settled status include:
 - Working and engaging in self-employment 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
- If you have settled status you should be able to spend up to **5 years in a row outside the UK** without losing your status. This is still subject to approval by Parliament.
- If you have pre-settled status, you can spend up to **2 years in a row outside the UK** without losing your status. You will need to maintain your continuous residence if you want to qualify for settled status.
- If a parent is granted either settled or pre-settled status any **child** living with them 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.
- If you get settled or pre-settled status your **close family members** can join you in the UK before 31 December 2020 and they will get pre-settled status or, if you have settled status and the family members are your children, they will get settled status straightaway.
- You will be able to bring close family members to the UK after 31 December 2020 if the relationship with them began before 31 December 2020 and you are still in the relationship when they apply to join you.
- **Family members** include a 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.

- **Non-EU family members** can also join or remain with you.

Who need not apply for settled 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. If you have Indefinite Leave to Remain you will not need to apply for settled status, but you can if you wish and this may be a preferable alternative to the option of making an expensive application for a biometric residence permit.
- If you are an **Irish citizen** you will not need to apply for settled status.

Permanent residence - why may you still want it? – particularly 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 his or her 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.
- Most such individuals either have not been aware of this provision in European law or, if they were, couldn't be bothered to apply for documentation confirming it since they were able to travel in and out of the country with the documentation they already had.
- They have been and still are entitled, however, to apply for documentation confirming their permanent residence and some have, particularly since it became mandatory to have such a document before applying to naturalise as a British citizen. Those already holding such documentation will still need to apply for settled status if they do not choose to become British by the date that settled status becomes mandatory at the end of 2020 or in 2021.
- Once you have had settled status, indefinite leave to remain or permanent residence 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, and knowledge of life in the UK requirements. 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.

<https://www.gov.uk/government/publications/application-to-naturalise-as-a-british-citizen-form-an>

- 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.

- In order to do this you ideally would want to demonstrate in your application that you had automatically acquired permanent residence under European Law more than one year ago because you had been exercising your European rights for five continuous years and the end of that five year period would be the date which the Home Office should designate, when issuing you your document confirming your permanent residence, as the start date of your permanent residence. It is very important in making such an application that you are very clear about when you believe you acquired permanent residence and that you provide good evidence of this.
- The online application form for such a document is far more straightforward and easier to use than the 90 page paper application form. It does not require you to list all of your travels abroad since moving here but only asks whether you have been away for periods of more than six months.

<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.
- A **child born in the UK before 2 October 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 2 October 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 30 April 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, 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>

Helpful further links;

- 1) The Home Office have hired 200 staff to provide advice on your rights as a European. You can call a helpline on 0300 123 7379. See also the series of very useful guidance leaflets produced by the Home Office and available **here**:-

<https://www.gov.uk/government/collections/eu-settlement-scheme-applicant-information>

2) UKCEN – volunteer run free information and legal advice

<http://www.ukcen.co.uk/>

3) The 3 Million – campaigning for the rights of EU citizens

<https://www.the3million.org.uk/settled-status>

4) European Commission representation in UK – FAQs and videos

https://ec.europa.eu/unitedkingdom/services/your-rights_en

5) Here for Good – free immigration advice

<https://www.hereforgoodlaw.org/>

6) Mayor Of London – EU Londoners Hub

<https://www.london.gov.uk/what-we-do/eu-londoners-hub>

7) Islington In Europe

<http://www.islingtonineurope.org/>

8) Islington Council

<https://www.islington.gov.uk/birth-death-marriage-and-citizenship/nationality-and-citizenship/advice-for-eu-citizens>

ID verification service

<https://www.islington.gov.uk/birth-death-marriage-and-citizenship/nationality-and-citizenship/eu-settlement-scheme-euss-id-verification-service>

Contact details for the law firms providing the presentation

Wilson Solicitors LLP

697 High Road

London N17 8AD

Phone: 020 8808 7535.

<https://www.wilsonllp.co.uk/>

(and at The Cursitor Building, 38 Chancery Lane, London WC2A 1EL)

Matthew Davies – m.davies@wilsonllp.co.uk

Wesley Gryk Solicitors LLP

140 Lower Marsh

London SE1 7AE

Phone: 020 7401 6887.

<http://www.gryklaw.com/>

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Dear [REDACTED]

I am pleased to inform you that your application under the EU Settlement Scheme has been successful and that you have been granted **Indefinite Leave to Remain (ILR) in the United Kingdom**, under Appendix EU to the Immigration Rules. This is also referred to as **settled status**. Your status takes effect from the date of this letter, which can be found above.

Your settled status in the UK can be confirmed online through the Home Office online checking service: 'View and Prove your Rights in the UK': view-and-prove-your-rights.homeoffice.gov.uk. You may use the online service to show your settled status in the UK. **This letter is not proof of your status.**

Important information about viewing your status online and about your status and rights is included below.

If you have any questions or would like to discuss this letter, details on contacting us can be found on our website: <https://eu-settled-status-enquiries.service.gov.uk>.

Yours sincerely,

UKVI European Casework

On behalf of the Secretary of State

Important information

Your status

As you now have settled status there is no time limit on how long you can stay in the UK.

Your settled status gives you the right to stay in the UK under UK immigration law. At the same time, until 31 December 2020, you can also continue to rely on any rights you have as an EU citizen or family member of an EU citizen: <https://www.gov.uk/right-to-reside>.

Online evidence of your status

This letter is not proof of your status in the UK. Your status is linked to the passport or national identity card that was used to apply for the scheme.

In line with existing requirements, you may be required to prove your status in order to demonstrate your right to work, or to access benefits and services, for example to prospective employers and landlords, the National Health Service (NHS), other Government departments and local authorities.

As well as being able to use valid residence documentation or a passport or national identity card to evidence your status until 31 December 2020, you can soon also use the Home Office online checking service to prove your rights. You can view your online status at any time with this service at view-and-prove-your-rights.homeoffice.gov.uk

The online checking service is available now to show your right to work to an employer by letting them view your status online. In due course, it will also be available to you to show a landlord your right to rent accommodation. Checks are already carried out by employers or landlords when you wish to work or rent in the UK but this online service will allow the checking of your new settled status. This information is protected by Data Protection Legislation and employers and landlords will only be able to check your status if you have given them permission to do so. If you would like to see how this works you can log on to the online service: view-and-prove-your-rights.homeoffice.gov.uk.

To keep your online status up to date, you will need to tell us if you change your passport or national identity card for any reason. As most passports and national identity cards expire every 10 years, you will probably need to inform the Home Office within the next 10 years of the details of your replacement documentation. You can find out more general information about viewing and proving your rights at:

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

Work and access to services

You do not need permission from a Government department to take or change employment. You may engage in business or an occupation, or be self-employed, as long as you comply with any legal requirements for that activity. You will still need to prove your rights to work in the UK to employers, just as you do now.

You do not need permission to enrol in education or continue studying.

You are entitled to NHS healthcare if you are ordinarily resident in the UK.

Whether you are entitled to benefits and other public funds depends on whether you meet the relevant eligibility requirements which are set by the issuing Government department, local authority or delivery partner.

At the UK border

There are no changes for when you travel in to the UK.- You must continue to present your passport or national identity card at the UK border.

Time outside the UK

Under current UK immigration law, if you are absent from the UK for a continuous period of more than two years, your settled status will lapse. If you leave the UK and return within two years, you can enter the UK and continue to live here as a person with settled status under the EU Settlement Scheme. If you leave the UK for more than two years and your settled status lapses, you will need to make a new application under one of the routes which may be available to you to return to the UK. In the application, you will need to meet the requirements of the Immigration Rules in force at that time.

Parliament will be invited to amend UK immigration law in line with a final agreement with the EU on citizens' rights, so that you can then be absent from the UK for up to five consecutive years before your settled status lapses.

Family members

As a person with settled status under the EU Settlement Scheme, your family members may be able to join or remain with you in the UK under the EU Settlement Scheme. Or you may be able to sponsor a family visa for them – you can find further information about this at: www.gov.uk/uk-family-visa.

British citizenship

If you would like to find about becoming a British citizen, you can find information at: www.gov.uk/becoming-a-british-citizen.

If a child is born to you in the UK while you have settled status, they will be a British citizen automatically at birth. You can find further information about this at: www.gov.uk/government/publications/children-nationality-policy-guidance.

Removal from the UK

Where a person who is not a British citizen commits a serious criminal offence, consideration will be given to whether they should be permitted to continue living in the UK.

Further information

The Data Protection Act 2018 governs how we use personal data. For details of how we will use your personal information and who we may share it with please see our Privacy Notice for the Border, Immigration and Citizenship system at www.gov.uk/government/publications/personal-information-use-in-borders-immigration-and-citizenship. This also explains your key rights under the Act, how you can access your personal information and how to complain if you have concerns.

For more information about EU citizens and their family members in the UK, please see: www.gov.uk/settled-status-eu-citizens-families/eligibility

For further information or if you have any queries, our contact details are on our website: <https://eu-settled-status-enquiries.service.gov.uk>