

# **EU SETTLEMENT SCHEME**

**INFORMATION  
FOR EU CITIZENS  
IN THE UK**



## DISCLAIMER

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**This leaflet has useful information for EU citizens living in the UK by 31 December 2020 who have applied or need to apply to the EU Settlement Scheme. There is also information on the rights of family members of EU citizens who have status under the EU Settlement Scheme.**

**It is purely for information purposes and has no legal force. It does not provide any legal interpretation of EU or UK legislation and is not meant to replace specialised legal advice on UK immigration rules.**

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## 1. What is the EU Settlement Scheme?

The UK's EU Settlement Scheme (the Scheme) is an immigration scheme for EU citizens and their family members. The Scheme is based on the EU-UK Withdrawal Agreement <sup>(1)</sup> and provides a residence status to EU citizens <sup>(2)</sup> who arrived in the UK by 31 December 2020, the date on which EU free movement in the UK ended. The Scheme also applies to certain family members of eligible EU citizens.

Settled status and pre-settled status are UK domestic immigration statuses issued under the Scheme. These statuses allow holders to continue living in the UK even though EU free movement law no longer applies to the UK. Settled status is permanent residence, and pre-settled status is granted for 5 years – with the status holder able to apply for settled status once they have lived in the UK for 5 years. Although pre-settled status is initially granted for 5 years, the status does not expire if the status holder continues to meet the conditions of the Withdrawal Agreement (see Section 6 for more information).

The deadline to apply under the Scheme was 30 June 2021; however, the Scheme remains open to those who missed the deadline with good reason. Those who missed the deadline can still apply, but they will have to explain the reasons for the delay that led

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<sup>(1)</sup> There are separate agreements between the UK and Iceland, Liechtenstein, Norway and Switzerland that very closely resemble the Withdrawal Agreement, which means the information in this leaflet applies to European Economic Area and Swiss citizens as well.

<sup>(2)</sup> There are some limited exceptions to the requirement to apply; for example, Irish citizens have a choice about whether to apply to the Scheme. Dual EU and British citizens cannot apply but their family members can.

to them applying after the deadline (see Section 3 for more details on how to make a late application to the Scheme). Eligible family members who were not living in the UK by 31 December 2020 can apply to join their EU family member in the UK under the Scheme at any time in the future (see Section 6 for more details on family member applications).

## 2. How can I prove that I have settled/ pre-settled status?

For EU citizens, settled status and pre-settled status are provided in digital form only. This means that you will not get a physical ID card as proof of your status. Therefore, it is very important to know how to access your digital status and how to show it to those who may need to see it. The Home Office refers to your digital status as your UK Visas and Immigration account (or UKVI account); in this leaflet we have used the term 'digital status'. When you are granted settled status or pre-settled status, the Home Office will usually send you a PDF letter via email telling you what status you have and providing other important information about the rights you have. It is a good idea to take a printout of this letter if you are travelling outside the UK, and you can also download a copy to your smartphone if you have one. However, for most immigration checks, this PDF letter cannot be used to prove your status, which is why you need to know how to access your digital status.

To show that you have settled status or pre-settled status in the UK, you need to know how to access your UKVI account and use the online ['view and prove](#)

[service'](#) <sup>(3)</sup>. Once at the login page you will need the following.

- If you are an EU citizen, the number of the identity document you used when you applied (the number of your passport or national identity card). Or, if you have updated your digital status with a new identity document, the number of this document.
- If you are a non-EU national, the number of the identity document you used when you applied (your passport or biometric residence card or permit). Or, if you have updated your digital status with an identity document, the number of this document.
- Your date of birth.
- The mobile phone number or email address you used when you applied. Or, if you have updated your digital status with new contact details, you will use these (when you log in you will get a 'one-time-use' security code to complete the process).

If you have any problems logging in to your digital status or any issues with the information in your digital status you should contact the [UKVI Settlement Resolution Centre](#) <sup>(4)</sup>: +44 (0)300 790 6268.

It is a good idea to keep the details in your digital status up to date. You can do this by logging in to your [UKVI account](#) <sup>(5)</sup> and using the 'update your details' tab. To update your mobile phone number or email address you must add the new details, after which a code will be sent to the new mobile number or email for you to

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<sup>(3)</sup> <https://www.gov.uk/view-prove-immigration-status>.

<sup>(4)</sup> <https://www.gov.uk/contact-ukvi-inside-outside-uk/inside-the-uk/applying-to-continue-living-in-the-uk-including-settled-and-pre-settled-status/using-the-eu-exit-id-document-check-app>.

<sup>(5)</sup> <https://www.gov.uk/update-uk-visas-immigration-account-details/update-your-ukvi-account>.

verify them. You can also update your profile with a new identity document (passport or national ID card), which is important as this will help you to re-enter the UK smoothly after travelling outside. To update your digital status with a new identity document, you need to enter the details of the identity document and then upload a picture of it. In some cases, you will need to send the new identity document to the Home Office for checking (e.g. if you have changed your name and your new name is now recorded on your identity document, it will need to be sent to the Home Office).

You will be required to show your digital status to third parties (e.g. employers, landlords in England, universities and banks). You can show your settled status and pre-settled status by logging in to your digital status and choosing to 'digitally share' it. This means that you will generate a 'share code' that can be given to the checking party for them to verify with the Home Office. There are three different share codes you can generate: one for employers, one for landlords and one for other parties such as universities and banks. Your digital status can be seen automatically by some public authorities and government departments (e.g. the National Health Service (NHS), the Department for Work and Pensions (DWP) and the UK Border Force if your identity document is linked to your digital status <sup>(6)</sup>) without you needing to log in yourself. There is additional information about your digital status in Sections 12, 13 and 14 below.

If you have any questions or problems, you should contact the [UKVI Settlement Resolution Centre](#): +44 (0)300 790 6268.

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<sup>(6)</sup> <https://www.gov.uk/guidance/using-your-uk-visas-and-immigration-account#help-accessing-your-ukvi-account>.

Non-EU family members with settled status or pre-settled status are given digital status and will also receive a physical document as proof of their status, known as a biometric residence card. However, this is only issued if the family member does not already hold an existing valid biometric residence card. Family members with an existing biometric residence card can continue to use this until it expires, though if you want to swap your existing biometric residence card for one issued under the Scheme you can do this for free. If your biometric residence card expires, or is lost, damaged or stolen, you can [apply for a replacement](#) <sup>(7)</sup>. Non-EU family members can use their digital status to prove their status to employers and landlords (and others); however, for overseas travel they should carry a valid biometric residence card, as carriers (e.g. airlines, ferries, Eurostar) will often ask to see such a card to allow the person to travel to the UK. The Home Office intends to phase out the use of biometric residence cards by the end of 2024, at which time you will be required to use your digital status for all purposes.

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(7) [https://visas-immigration.service.gov.uk/product/biometric-residence-permit-replacement-service?\\_ga=2.9880885.1408909759.1597665806-1939459641.1592321380](https://visas-immigration.service.gov.uk/product/biometric-residence-permit-replacement-service?_ga=2.9880885.1408909759.1597665806-1939459641.1592321380).

### **3. I missed the 30 June 2021 deadline and did not apply to the EU Settlement Scheme. Can I still apply?**

You can still apply to the Scheme even if you missed the 30 June 2021 deadline, if you have a good reason for applying late. Your good reason will need to justify why you missed the deadline and explain the delay between the deadline and the date you make your late application. In most cases, EU citizens and their family members living in the UK by 31 December 2020 had to apply to the Scheme by 30 June 2021. However, a condition of the Withdrawal Agreement is that late applications must be accepted where there are 'reasonable grounds' for missing the deadline. In other words, if there is a good reason why you did not make your application by the deadline, a good reason for the delay in making your application and you meet the residence condition of living in the UK by 31 December 2020, you can still be granted settled status or pre-settled status <sup>(8)</sup>. Joining family members (as explained in Section 6) do not have a deadline to apply to the Scheme if they are outside the UK, as they can apply to join their EU-citizen family member at any time. However, once a joining family member with an EUSS family permit (see Section 5 below) enters the UK, they must then apply for settled status or pre-settled status before the EUSS family permit expires, otherwise they will be considered to be a late applicant.

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<sup>(8)</sup> You must also meet the 'suitability' criteria to be granted status.

The Home Office has published [guidance](#) <sup>(9)</sup> that gives some examples of good reasons for applying late to the Scheme. There are various reasons someone may need to apply late, so if your reason for applying late is not included in the guidance, this does not automatically mean you do not have a good reason. When applying, you should explain as best you can the reasons why you did not apply by the deadline and why you were not able to apply until now. If the Home Office accepts that you have a good reason for applying late, it will go on to consider whether you meet the conditions to be granted settled or pre-settled status.

The following are some good examples included in the Home Office guidance as to why people might be applying late – remember that they are only examples and that this is not a full list.

- Children (including children in care and care leavers) who have not had an application made on their behalf.
- Those with physical or mental capacity issues and/or care or support needs that have contributed to a delay in making an application.
- A serious medical condition or significant medical treatment that has contributed to a delay in making an application.
- Being a victim of an abusive or controlling relationship or situation.
- Being exempt from immigration control.
- Holding an immigration status that is not settled status or pre-settled status.

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<sup>(9)</sup> [https://assets.publishing.service.gov.uk/media/65a64d87640602000d3cb6fa/EU\\_Settlement\\_Scheme\\_EU\\_other\\_EEA\\_Swiss\\_citizens\\_and\\_family\\_members.pdf](https://assets.publishing.service.gov.uk/media/65a64d87640602000d3cb6fa/EU_Settlement_Scheme_EU_other_EEA_Swiss_citizens_and_family_members.pdf).

You can apply late to the Scheme using the [online application form](#) <sup>(10)</sup>. If your passport or national ID card is valid then you can use the [Home Office ID scanning app](#) <sup>(11)</sup> (the 'EU Exit: ID Document Check' app, which works on smartphones) to scan your biometric passport or national identity card. After you have scanned your identity document you must complete the online form.

If you do not have a passport or national ID card and cannot get a new one issued quickly, you can apply using a paper application form, which is sent out by the Home Office [EU Settlement Resolution Centre](#): +44 (0)300 123 7379.

When you call the EU Settlement Resolution Centre you must explain why you cannot provide a passport or national ID card. You will need to provide an alternative acceptable proof of identity with your paper application.

The online application form and the paper application forms allow you to explain the reasons why you are applying late; however, you may not be able to explain your situation in detail in the space provided in the online form, so it may be a better idea to write a letter or statement to the Home Office explaining all the reasons for applying late. It is very important to give a detailed explanation so the Home Office fully understands your situation, and wherever possible you should provide evidence that supports the reasons for you missing the deadline and for your delay in applying. If you do not provide enough information

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<sup>(10)</sup> <https://www.gov.uk/settled-status-eu-citizens-families/applying-for-settled-status>.

<sup>(11)</sup> <https://www.gov.uk/guidance/using-the-eu-exit-id-document-check-app>.

when you apply, the Home Office can contact you to request additional information or evidence.

It is very important that you respond to any such requests from the Home Office (sometimes the Home Office will email you about your application, so it is important to check your spam/junk folders for emails). If you do not provide any reasons for making a late application, the Home Office will most likely reject your application without contacting you first.

### **HOW WILL I KNOW IF MY REASONS FOR APPLYING LATE ARE CONSIDERED GOOD ENOUGH?**

If the Home Office accepts that you have a good reason for applying late to the Scheme, as described above, it will issue you with a certificate of application that allows you to exercise your rights while you are waiting for a decision on your application (see Section 4 for more information). The Home Office will assess whether you are eligible for settled status or pre-settled status and will send you a decision on your application, though it may contact you for more information and evidence if it is not able to make a decision on your application on the information and evidence you have provided. The decision will either grant you settled status or pre-settled status, or will refuse your application (see Section 10 for more information about challenging a refusal decision).

If the reasons you give for making a late application are not accepted by the Home Office, your application will be rejected, which means the Home Office will not consider whether you meet the conditions to be granted settled status or pre-settled status. A letter explaining why your reasons have not been accepted will be sent to you (usually by email). You

cannot challenge a rejection decision by making an administrative review or an appeal. If your late application is rejected, you can submit a further application if you are able to better explain and justify your reasons for applying late. If you submit a new late application, you should try to address the reasons for rejection that the Home Office gave in the rejection letter relating to your previous late application. In some situations it may be possible to make a judicial review challenge to the Home Office's decision to reject your late application. As it is complicated to respond to the Home Office's rejection of your late application, it is a good idea to speak to a regulated immigration adviser to understand the best way to proceed.

#### **4. I have applied to the EU Settlement Scheme but my application is still pending. How can I prove that I applied?**

While you are waiting for a decision from the Home Office you should be able to continue living in the UK in the same way that you have done up until now. As organisations such as employers, landlords in England, universities, and public authorities like the NHS and the DWP need to see your status, they need to be able to check that you have applied to the Scheme.

Once the Home Office confirms that your application is valid, it will issue you a certificate of application, which proves that you have applied to the Scheme. To validate your application, the Home Office must confirm your identity and your nationality. If you are applying late, the Home Office must accept that you have a good reason for doing so (see Section 3 above). If you used the Home Office ID scanning app to scan your biometric passport or national identity

card, your identity and nationality should be confirmed immediately with a certificate of application sent to you by email. If your passport or national identity card is not biometric, you should apply using the online application form and then send your identity document to the Home Office to be checked. The Home Office should send your identity document back to you without delay. If you have made an application using the paper application form, the identity validation process takes longer, which means there may be a delay before you receive your certificate of application.

The certificate of application is normally a PDF letter sent to you by email, and you will also receive a digital profile that you can log in to, which shows your pending application status (you log in to the digital profile in the way described in Section 2). You can use your certificate of application to prove that you have applied to the Scheme; for example, if you apply for a new job and the employer asks you to show you have the right to work in the UK, you can provide them with a share code that is created using the digital certificate of application.

## WHAT IF I APPLIED LATE, AFTER THE 30 JUNE 2021 DEADLINE?

The Withdrawal Agreement provides protection to all those who have applied to the Scheme, including those who have applied late with good reason. This means that when the Home Office accepts that an applicant has a good reason for applying late and issues them with a certificate of application, they have the right to work, rent accommodation, study and access the NHS (along with other rights) while they are waiting for the Home Office to issue a decision. These protections also apply if your application is refused and you are challenging the refusal decision ('challenging' means applying for an administrative review or making an appeal; see Section 10).

All applicants to the Scheme, including those who apply late, should be provided with a certificate of application by the Home Office once their application has been validated. Organisations and government departments should accept a certificate of application as proof of your rights while you are waiting for a decision. The Home Office has issued guidance to [employers](#) <sup>(12)</sup> and to [landlords](#) <sup>(13)</sup> in England setting out the rights that applicants to the Scheme have while they are waiting for an outcome. If a third party or a government department does not accept the certificate of application as evidence of your rights, this should be reported to the Independent Monitoring Authority (IMA) (see Section 16 for information about the IMA).

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<sup>(12)</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1066838/Employer\\_s\\_Guide\\_to\\_Right\\_to\\_Work\\_Checks\\_PDF.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1066838/Employer_s_Guide_to_Right_to_Work_Checks_PDF.pdf).

<sup>(13)</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1066831/Landlord\\_s\\_guide\\_to\\_right\\_to\\_rent\\_checks\\_PDF.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1066831/Landlord_s_guide_to_right_to_rent_checks_PDF.pdf).

## 5. I have a close family member who would like to join me in the UK. Can they apply to the EU Settlement Scheme?

EU citizens granted settled status or pre-settled status who have close family members who did not live in the UK by 31 December 2020 can sponsor these family members to join them in the UK (14). There is no deadline to apply for eligible close family members to come to the UK, therefore they can apply to the Scheme from outside the UK at any time in the future. These close family members are called 'joining family members' under the Scheme. A joining family member can be of any nationality.

Which close family members are covered by the Scheme?

- Your spouse, civil partner or durable (unmarried) partner, where the relationship existed by 31 December 2020.
- Your parents and grandparents who are dependent on you.
- Your children and grandchildren who are under 21 years old.
- Your children and grandchildren who are 21 and over and are dependent on you.
- Your future children, born or adopted.

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(14) Non-EU family members living in the UK with their EU-citizen family member(s) by 31 December 2020 should have made an application to the Scheme by 30 June 2021. They can still apply to the Scheme by making a late application as described in Section 3. If this late application is rejected, the family member may still be able to apply from outside the UK to be granted status as a joining family member. It is important to consult a regulated immigration adviser to understand the best way to proceed if this situation applies to you or your family member(s).

Dependent parents and children applying as joining family members can be related to either the EU sponsor or their spouse or civil partner (if the marriage or civil partnership took place by 31 December 2020, or if the couple were recognised as durable partners under the Scheme by the Home Office and have since gone on to marry or enter a civil partnership).

The EU citizen who is sponsoring the joining family member(s) will normally hold pre-settled or settled status themselves, as this proves they are able to sponsor their joining family member. However, there will be some EU sponsors who do not hold status under the Scheme but can still sponsor family members. For example, Irish citizens are not required to hold status under the Scheme, and EU citizens who have become dual British citizens after exercising their free movement rights will not hold status. In both cases they can still sponsor eligible family members to join them.

If the joining family member is outside the UK, they should make an application and wait for this to be granted before travelling to the UK. There are two application routes that joining family members can use to apply under the Scheme.

- They can apply directly for pre-settled or settled status using the 'Home Office EU Exit: ID Document Check' app (this is mainly for EU citizens joining family members).
- They can apply for an EU Settlement Scheme family permit (this is mainly for non-EU family members; it is referred to as an EUSS family permit).

The qualifying conditions to be sponsored as a joining family member are the same whichever application route is used. Once the joining family member is approved by the Home Office, they will be able to travel to and enter the UK. If the joining family member uses an EUSS family permit to enter the UK, they must apply for either settled status or pre-settled status before the expiry of the EUSS family permit. If the joining family member misses this deadline to apply, they must make a late application as described in Section 3. If this late application is rejected for not showing a good reason for applying late, the joining family member will need to reapply from outside the UK to be granted a new EUSS family permit, and will then be able to re-enter the UK to apply for settled status or pre-settled status before the expiry of the EUSS family permit.

If a joining family member is already in the UK without having made an application to the Scheme or for an EUSS family permit, in most cases they can apply to the Scheme for settled status or pre-settled status without needing to leave the UK (15). However, the application must be made within 3 months of entering the UK, otherwise the joining family member must make a late application as described in Section 3. If this late application is rejected for not showing a good reason for applying late, the joining family member will need to reapply from outside the UK to be granted status as a joining family member, and will then be able to re-enter the UK.

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(15) The Home Office will reject a joining family member application for settled status or pre-settled status if the applicant is present in the UK as an 'illegal entrant' as defined in Section 33(1) of the Immigration Act 1971, or as an irregular arrival.

## 6. I have pre-settled status. Do I need to apply for settled status, and when can I apply?

When the Home Office designed the EU Settlement Scheme, the intention was that applicants granted pre-settled status would be required to make a second application for settled status once they had lived in the UK continuously for 5 years. This is why pre-settled status expires after 5 years, as this meant that people would need to apply for settled status to keep their residence rights. The IMA (see Section 16 for more details), with support from the European Commission and the organisation the3million, challenged the Home Office in the High Court, as these organisations argued that pre-settled status cannot expire if the status holder still meets the conditions of the Withdrawal Agreement, and the Home Office cannot therefore force pre-settled status holders to apply for settled status. The High Court<sup>(16)</sup> agreed, and ruled that the Home Office's design of the Scheme was wrong. The Home Office was ordered to correct the Scheme to ensure that pre-settled status does not expire after 5 years (or expire at all).

Following the High Court judgment, in July 2023 the Home Office announced two changes to the Scheme. Firstly, those who have pre-settled status and have not applied for settled status will have their pre-settled status extended for 2 years. This extension will happen automatically, just before the expiry of the pre-settled status that would happen after 5 years. The Home Office will notify the pre-settled status holder that the

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<sup>(16)</sup> See the High Court judgment at the following web page: <https://ima-citizensrights.org.uk/app/uploads/2023/05/IMA-FINAL-judgment.pdf>.

status has been extended by 2 years. Secondly, the Home Office announced that at some point in 2024 there will be a process by which some pre-settled status holders will be automatically converted to settled status. It is likely that the Home Office will use government records to try to identify pre-settled status holders who have been resident in the UK for 5 continuous years, and are therefore eligible for a grant of settled status. As the Home Office will rely on government records to automatically convert someone from pre-settled status to settled status, it means that not every pre-settled status holder will be able to get settled status automatically.

At the time of writing, it is unclear how the Home Office intends to approach pre-settled status holders who cannot be automatically converted to settled status. However, the High Court judgment is clear that pre-settled status holders who continue to meet the conditions of the Withdrawal Agreement cannot lose their residence status, even if they do not have settled status. In some cases, where pre-settled status holders no longer meet the conditions of the Withdrawal Agreement, the Home Office may seek to remove their pre-settled status. A decision to remove pre-settled status can be appealed to the Immigration Tribunal if the person disagrees with this decision (see Section 10 for more information about appeals to the Immigration Tribunal).

Although the High Court ruled that a pre-settled status holder cannot be forced to apply for settled status, this does not prevent you from applying for settled status if you want to. It makes sense to apply for settled status once you qualify, as holding this status makes it easier to prove that you now have a permanent right to reside in the UK and the rights attached to this status (e.g. you can easily show that,

as a permanent residence holder, you are entitled to better access to public benefits, and you are allowed to be away from the UK for a longer period of time without losing your status). If you decide you want to apply for settled status, in most cases you can apply once you have built up 5 years of continuous qualifying residence in the UK <sup>(17)</sup>. It is a good idea to apply for settled status as soon as you qualify, as it is easier to prove your permanent residence rights once you hold settled status.

## **7. I have pre-settled status and want to apply for settled status. How do I do this and what do I need to send to the Home Office?**

The application process for settled status is the same as when you applied for pre-settled status. The difference when applying for settled status is that you need to show the Home Office that you have lived continuously in the UK for 5 years. The Home Office will carry out another check on your National Insurance number (NINO) – if you have one – when you apply for settled status, to try to establish whether you have 5 years of residence. If your NINO does not show that you have lived in the UK for 5 years, or you do not have a NINO, you will be asked to provide documents showing that you have 5 years of residence.

As you may need to provide documents showing that you have lived in the UK for 5 continuous years to be

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<sup>(17)</sup> See the following web page for information on when a person qualifies for settled status with less than 5 years of continuous residence: <https://www.gov.uk/settled-status-eu-citizens-families/settled-status-less-than-5-years>.

granted settled status, it is important that you start to think now about what documents you can collect as your records of living in the UK. Examples of the types of documents that will be useful for your settled status application are:

- council tax bills and utility bills;
- mortgage statements or rental agreements;
- employment documents;
- bank statements showing spending in the UK;
- confirmation of attendance at school, college or university;
- general practitioner (GP) and/or hospital records;
- correspondence from the DWP or His Majesty's Revenue and Customs (HMRC).

These are only examples, and there will be many other types of documents that can help you show that you have been living in the UK. It is also a good idea to keep records of any time you have spent outside the UK (travel tickets, bookings, etc.), particularly if you travel frequently or are intending to spend several months outside the UK at any time.

## **8. I have pre-settled status but left the UK for a longer time period. Can I still get settled status?**

In most cases, to be granted settled status you need to have lived continuously in the UK for 5 consecutive years; this is called the continuous qualifying period, sometimes referred to as continuous residence. Once you have built up your 5 years of continuous residence to be granted settled status, you can be away from the UK for up to 5 years without losing your settled status.

### **(A) WHAT DOES CONTINUOUS RESIDENCE MEAN?**

The most important continuous residence rule is that once you start your continuous qualifying period, you should be resident in the UK for at least 6 out of every 12 months for a period of 5 years. Being outside of the UK for longer than this will normally break your continuous residence, although there are some exceptions that are set out under (b), (c) and (d) below. You will break your continuous residence if you have a single absence that exceeds 6 months, or by adding up multiple absences that together exceed 6 months, if they all take place within a 12-month period. For example, a trip of 3 months and a trip of 4 months within the same 12-month period will add up to 7 months and break continuous residence.

Your continuous qualifying period begins once you move to the UK, and you calculate your 5 years based on your arrival date. If you arrived on 1 January 2019, then year 1 of your 5 years finishes on 31 December 2019, with year 2 starting on 1 January 2020 and so on. If you arrived on 1 July 2020, year 1 finishes on 30 June

2021 and year 2 starts on 1 July 2021. You must make sure that you are resident for at least 6 months in each year of your qualifying residence. Your allowance of up to 6 months away from the UK resets in each year of your 5-year qualifying period.

However, it is important to be aware that the Home Office calculates the 6-month rule on a rolling basis, which means that, according to the Home Office, if you have a 3-month trip at the end of year 1 of your residence and a 4-month trip at the beginning of year 2, these will still be counted in the same 12-month period even though the trips fall in different qualifying years<sup>(18)</sup>. In this situation, the Home Office says that continuous residence has been broken and the person will not qualify for settled status.

## **(B) WHAT IF I NEED TO BE AWAY FROM THE UK FOR A LONGER PERIOD FOR SOMETHING IMPORTANT?**

There is an exception to the above 6-month absence rule, which is that within your 5-year continuous residence period you are allowed one period outside the UK of up to 12 months for an important reason. The following list includes important reasons before being absent for up to 12 months. They are only examples, and there may be other important reasons why you might be absent for up to 12 months. These examples are:

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<sup>(18)</sup> NB: There is a difference in opinion between the Home Office and the European Commission about how to calculate 6 months of absence in a 12-month period. As noted above, the European Commission believes 12-month periods are fixed and calculated from the date you entered the UK. The Home Office Scheme rules calculate absences on a rolling 12-month basis.

- pregnancy
- childbirth
- serious illness
- studies
- vocational training
- overseas posting.

An absence from the UK because of military service or working for the UK government in Crown service does not break your qualifying residence, even if it means being away for over 12 months.

### **(C) WHAT ABOUT THE IMPACT OF COVID-19?**

Given the unprecedented impact of the COVID-19 pandemic on peoples' lives, the Home Office amended the rules of the Scheme and published [COVID-19 guidance](#) <sup>(19)</sup> to cover people who left the UK for an extended period because of the pandemic. The guidance gives information about when the Home Office accepts that extended absence from the UK due to COVID-19 will not break your continuous residence. If you had already had a single absence from the UK of up to 12 months for an important reason (as covered under (b) above), it is possible to then have had a second extended absence related to COVID-19. If you have had an extended absence related to COVID-19, you may be able to have a second extended single absence of up to 12 months for an important reason (as covered under (b) above).

The guidance says that COVID-19 is considered an important reason to be outside the UK for up to

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<sup>(19)</sup> <https://www.gov.uk/guidance/coronavirus-covid-19-eu-settlement-scheme-guidance-for-applicants>.

12 months in a single period. It contains a list of reasons why someone might be absent because of COVID-19. They are only examples, and there may be other acceptable reasons for you having been absent because of the COVID-19 pandemic.

- If you were ill with COVID-19.
- If you were in quarantine, self-isolating or shielding in accordance with local public health guidance on COVID-19.
- If you were caring for a family member affected by COVID-19.
- If you were prevented from returning earlier to the UK due to travel disruption caused by COVID-19.
- If you were advised by your university that, due to COVID-19, your course was moved to remote learning and you were advised or allowed to return to your home country to study remotely.
- If you were advised by your university or employer not to return to the UK and to continue studying or working remotely from your home country.
- If you were absent from the UK for another reason related to COVID-19, for example you left or remained outside the UK because there were fewer restrictions elsewhere, you preferred to work or run a business from home overseas or you would have been unemployed in the UK and preferred to rely on support from family or friends overseas.

**(D) I HAVE BEEN OUTSIDE THE UK FOR MORE THAN 12 MONTHS BECAUSE OF COVID-19. CAN I STILL QUALIFY FOR SETTLED STATUS?**

If you have been away from the UK for more than 12 months because of COVID-19, you may be able to argue that you have not broken your continuous qualifying residence if you can show that this was linked to the pandemic. This part of the guidance states that the Home Office expects people who were away for more than 12 months to show that they were unable to return (e.g. because they were ill with COVID-19) or that they were advised not to return (e.g. by their employer or university), rather than exercising a choice to remain outside the UK. As this part of the guidance is more complicated, it may be a good idea to speak to a regulated immigration adviser if you were away for more than 12 months. The guidance confirms that if the Home Office accepts that you have not broken your continuous residence in this situation, the time outside the UK after 12 months is not counted towards the 5-year continuous qualifying period. For example, if you have a good reason for being absent during the COVID-19 pandemic for 18 months, the last 6 months of your absence will not count towards your 5-year continuous qualifying period.

## 9. How can I apply to the EU Settlement Scheme for my children?

It is important to be aware that many children will need to make their own application to the Scheme for settled status or pre-settled status, even if their parents have applied. As a general rule, children who are not born in the UK will need to make an application to the Scheme for their own grant of status. If your children have not yet made an application, they can make a late application to be granted either settled status or pre-settled status. If your children are not old enough to apply for themselves, you can apply on their behalf as their parent. The application process is the same for children as it is for adults, and if you want to link your child's application to your status, you will be asked in the application form to give details of your own application reference, i.e. the 16-digit unique application number (UAN) the Home Office gave you when you made your own application. Children of a parent with settled status will be granted settled status in line with their parent's settled status, even if they have not lived in the UK for 5 continuous years.

For children born in the UK where one (or both) of the parents has settled status or is otherwise 'settled' in the UK (e.g. is a British citizen or a permanent resident under the Withdrawal Agreement), the child is automatically born British and does not need to apply to the Scheme. This can include situations where the child's parents have pre-settled status but have obtained permanent residence under the Withdrawal Agreement. In these cases you can apply for a British passport from the [Passport Office](https://www.gov.uk/government/organisations/hm-passport-office) <sup>(20)</sup> for your child.

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<sup>(20)</sup> <https://www.gov.uk/government/organisations/hm-passport-office>

If a child is born on or after 1 July 2021 and either parent is still waiting for a decision on their application to the Scheme, with the outcome being that the parent is granted settled status<sup>(21)</sup>, it is possible that the child will become a British citizen on the date the parent is granted settled status. It can be complicated to know whether your child has been born British if you do not hold settled status when they are born, and you may therefore need to speak to a regulated immigration adviser to understand whether your child has been born British.

If neither of the parents is settled in the UK when the child is born in the UK – for example where both parents have pre-settled status and have not yet lived in the UK for 5 years – an application needs to be made to the Scheme for the child within 3 months of the child being born. If you can get an identity document issued for your child within the 3-month deadline (this would be a passport or a national identity card if your child is an EU citizen), you can use the online application process for them.

If you are unable to get an identity document within 3 months of your child's birth, you should contact the Home Office [EU Settlement Resolution Centre](#) on +44 (0)300 123 7379 to ask for a paper form to make an application. You will need to explain that you cannot get an identity document for your child within the 3-month deadline to make an application. If you did not apply for your child within the 3-month deadline you can make a late application for your child, explaining the reasons for the delay (see Section 3 for information about late applications).

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<sup>(21)</sup> Or the parent makes a late application to the Scheme and is granted settled status.

## 10. My application to the EU Settlement Scheme was refused. Can I appeal the decision?

The following information is general information about how to apply to have a refusal decision looked at again. There may be situations where specific rules apply that are not covered here. If you are refused status under the EU Settlement Scheme, we strongly recommend speaking to a regulated immigration adviser to best understand your options. Please be aware that not all refusal decisions can be successfully challenged. For example, if an applicant does not meet the criteria to be granted settled status or pre-settled status, appealing against the Home Office's refusal decision is very unlikely to lead to a positive outcome.

If the Home Office grants you pre-settled status instead of settled status, and you think that you should have been granted settled status, you can challenge this decision. If you have pre-settled status and apply for settled status but this application is unsuccessful, you can challenge this decision. If the Home Office decides to remove either your settled status or your pre-settled status, you have the right to challenge this decision. If you are a joining family member applying for settled status or for your pre-settled status or an EUSS family permit and the Home Office refuses you, you can challenge this decision.

A person challenging one of these Home Office decisions can appeal the decision to the Immigration Tribunal. Your appeal will be looked at by an independent immigration judge, who will decide whether the Home Office's decision is correct or should be overturned. If an applicant has applied for

an administrative review <sup>(22)</sup> of a Home Office decision but this is unsuccessful, they can then appeal to the Immigration Tribunal.

If you have new information and/or evidence that you would like to be considered in your appeal, this can be sent to the Immigration Tribunal. It is important to submit any new information and evidence to show that you should be granted status under the Scheme.

You must pay a fee to have your refusal decision looked at again; the fee is either GBP 80 or GBP 140 for a tribunal appeal (depending on the type of appeal you choose). In some cases, the appeal fee will be refunded if the Home Office made a mistake when it refused the application.

It is very important to appeal the Immigration Tribunal within the relevant time frame.

- If you are inside the UK and appealing to the Immigration Tribunal, you must do this within 14 days of the date the refusal decision was sent to you by the Home Office.
- If you are inside the UK and appealing to the Immigration Tribunal after the Home Office has refused your administrative review application, you must appeal within 14 days of the date the administrative review refusal was sent to you by the Home Office.
- If you are outside the UK and appealing to the Immigration Tribunal, you must do this within

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<sup>(22)</sup> Until 5 October 2023, most applicants who disagreed with a Home Office decision could either apply for an administrative review or make an appeal to the Immigration Tribunal, therefore people who applied for an administrative review before 5 October 2023 but are unsuccessful will be able to appeal to the Immigration Tribunal.

28 days of the date you receive the refusal decision from the Home Office.

- If you are outside the UK and appealing to the Immigration Tribunal after the Home Office has refused your administrative review application, you must appeal within 28 days of the date you receive the administrative review refusal from the Home Office.

In some situations, it may be possible to apply outside of these deadlines. However, there would need to be a very good reason for doing so, and it is therefore extremely important, wherever possible, to challenge the decision within the given time frame.

Information about appealing to the Immigration Tribunal can be found online at <https://www.gov.uk/immigration-asylum-tribunal>.

Generally, it is not possible to make another application to the Scheme if you believe you have wrongly been refused settled status or pre-settled status. This is because a new application would be made after the deadline to apply, and therefore would only be processed if the Home Office were to accept that you have a good reason for making a late application. In most cases, the Home Office expects that a refused applicant should apply for an administrative review (if the decision was received before 5 October 2023) or an appeal to the Immigration Tribunal, rather than submit a new late application. Therefore, if you try to make a new application after your application has been refused, it is very likely to be rejected as invalid and will not be considered (as set out under Section 3). However, in some situations there may be compelling reasons why a new application should be considered after the deadline, in which case the Home Office may accept the application.

## 11. Can I use my passport and national ID card at the UK border when returning?

If you are an EU citizen with settled status or pre-settled status, or who has made an application to the Scheme, and you have a certificate of application <sup>(23)</sup>, you are allowed to use either your passport or your national ID card to enter the UK. You can also continue to use your national ID card to enter the UK if you are an EU citizen who:

- has settled status or pre-settled status under the Jersey, Guernsey or the Isle of Man settlement schemes;
- has an EU Settlement Scheme family permit, or the equivalent, from Jersey, Guernsey or the Isle of Man;
- has a frontier worker permit;
- is an S2 healthcare visitor.

If you fall into one of these categories, you can choose which document you travel with. You have this right for life; however, if you want to continue travelling on your national ID card after 2025 it must be a biometric card.

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<sup>(23)</sup> Note that joining family members cannot enter the UK using a certificate of application, as they must wait for their application to be approved before travelling.

## 12. How do I keep my digital status up to date with a new passport or national ID card?

Section 2 explains how to access digital status and keep your [details up to date](#) <sup>(24)</sup>. Once you have logged in, there is a function that allows you to link a new identity document to your digital status (a passport or a national ID card if you are an EU citizen). Your digital profile retains information about your existing document(s) even when you add a new document, which means you can have multiple identity documents linked to your digital status. Please note that you need to use the identity document most recently linked to your profile to log in to your digital status.

It is recommended that you link all your identity documents to your digital status, as it should make re-entering the UK smoother at the UK border if the identity document you are travelling with is linked to your status. You can travel to and enter the UK even if your identity document is not linked to your digital status, but it may be necessary for your status to be checked at the UK border.

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<sup>(24)</sup> <https://www.gov.uk/update-uk-visas-immigration-account-details>.

### 13. How can I access benefits, social services and free healthcare in the UK?

If you have settled status or pre-settled status, you should be able to access these services on the same basis as you would have when the UK was part of the EU. If you have made an application to the Scheme and are awaiting an outcome, your rights are also protected while a decision is being made (including during any administrative review or appeal if the Home Office refuses your application in the first instance).

UK government departments responsible for administering benefits, social services and free healthcare will need to check that you hold settled status or pre-settled status under the Scheme, or have made an application to the Scheme that remains pending a decision. For example, if you need to make a claim for Universal Credit, the DWP will carry out a check to make sure you have settled status or pre-settled status or a pending application, and once this is confirmed, it will check whether you meet the other eligibility conditions to be granted Universal Credit.

The NHS can check whether you have settled status or pre-settled status when you receive treatment <sup>(25)</sup>. Some public services are administered by local authorities or local councils, which means that they will need to check whether you have pre-settled status or settled status or have a pending application when assessing whether you qualify for these services.

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<sup>(25)</sup> To receive free secondary NHS treatment, it is also a condition that the person is 'ordinarily resident' in the UK. This is a separate assessment from checking that the person holds settled status or pre-settled status. Pending applicants will generally need to show a certificate of application to prove their right to free healthcare.

## 14. Can I access home student fees and student finance? Do I need a student visa?

If you hold settled status or pre-settled status or have made an application to the Scheme, you are entitled to study in the UK and you do not need a student visa. You can show your university your digital status or your certificate of application, which shows you have made an application to the Scheme. Settled status or pre-settled status entitles you to home student fees and student finance if you meet the other eligibility conditions.

Each nation of the UK has different rules for accessing home student fees and student finance, so you will need to check the rules for the country you wish to study in. The [UK Council for International Student Affairs](#) <sup>(26)</sup> has useful information for students on its website.

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<sup>(26)</sup> <https://www.ukcisa.org.uk/About-UKCISA>.

## 15. Keeping records and documents

As explained in Section 7, it is a very good idea to keep records and evidence of your UK residence to make the process of converting from pre-settled status to settled status more straightforward. More generally, it is a good idea for everyone – those applying for their first grant of status under the Scheme, those with pre-settled status and settled status, and even those who have become British citizens – to keep good records of their UK residence. This is because the Withdrawal Agreement covers more citizens' rights areas than holding an immigration status in the UK. For example, the Withdrawal Agreement covers social security rights and coordination, including pension entitlements if you decide to leave the UK. It is possible that at some point in the future you may need to show documents covering your UK residence (such as your UK employment records), which is why we recommend retaining your records, even after you have been granted status under the Scheme.

## 16. I feel that my rights have not been respected. What can I do?

The Withdrawal Agreement required the UK to set up the Independent Monitoring Authority, or [IMA](#) <sup>(27)</sup>, to protect the rights of EU citizens living in the UK. The IMA is independent from the UK government and focuses on areas that affect large numbers of citizens, or that show an underlying problem with how citizens' rights are being implemented and managed. The IMA has two stated roles.

- To monitor how UK public bodies are protecting EU citizens' rights. This means seeking information that helps identify which areas are going well and which need to be improved.
- To promote the effective implementation of citizens' rights. This means helping citizens understand their rights and helping public bodies understand which areas need to be improved or corrected.

The [IMA can receive individual complaints from citizens](#) <sup>(28)</sup> who feel that their rights under the Withdrawal Agreement have not been respected. The IMA encourages EU citizens and family members to report issues to the organisation so that it can better understand their direct experiences. However, please be aware that the IMA cannot always help resolve the complaints it receives, as is explained on its website:

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<sup>(27)</sup> <https://ima-citizensrights.org.uk>.

<sup>(28)</sup> <https://ima-citizensrights.org.uk/our-work/complaints-from-the-public/>.

*Although we cannot resolve the individual complaints reported to us, they are vital in helping us find wider problems so we can help protect others from experiencing the same issues.*

There is information about how to lodge a complaint to the IMA on its website. You can also see the work the IMA has undertaken to promote and protect citizens' rights on the website's 'Our work' and 'News' pages.

## QUESTIONS AND INFORMATION

If you have questions, feel free to ask us on our Facebook page [@EUinUK](#) – immigration lawyers contracted by the EU delegation will answer you.

More information about the **EU Settlement Scheme** from the UK government can be found at:

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

<https://www.gov.uk/family-permit/eu-settlement-scheme-family-permit>

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

More information about your **UKVI account** (digital status) from the UK government can be found at:

<https://www.gov.uk/government/publications/view-and-prove-your-immigration-status-evisa/your-immigration-status-an-introduction-for-eu-eea-and-swiss-citizens-accessible-version>

<https://www.gov.uk/view-prove-immigration-status>

<https://www.gov.uk/update-uk-visas-immigration-account-details>

More information on **your rights under the Withdrawal Agreement** can be found at:

[https://commission.europa.eu/system/files/2022-10/qa-eu-cit-in-uk\\_en.pdf](https://commission.europa.eu/system/files/2022-10/qa-eu-cit-in-uk_en.pdf)

[https://ec.europa.eu/info/publications/travel-documents-required-eu-citizens-when-travelling-uk-1-october-2021\\_en](https://ec.europa.eu/info/publications/travel-documents-required-eu-citizens-when-travelling-uk-1-october-2021_en)

More information on **organisations** that may be able to assist you with your application for pre-settled and settled status can be found at:

<http://www.eurights.uk>

## GETTING IN TOUCH WITH THE EU

### In person

All over the European Union there are hundreds of Europe Direct centres. You can find the address of the centre nearest you online ([european-union.europa.eu/contact-eu/meet-us\\_en](https://european-union.europa.eu/contact-eu/meet-us_en)).

### On the phone or in writing

Europe Direct is a service that answers your questions about the European Union. You can contact this service:

- by freephone: 00 800 6 7 8 9 10 11 (certain operators may charge for these calls),
- at the following standard number: +32 22999696,
- via the following form: [european-union.europa.eu/contact-eu/write-us\\_en](https://european-union.europa.eu/contact-eu/write-us_en).

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