

EU Settlement Scheme FAQ's

Who is this guide for?

- EU nationals and their family members.
 - Irish nationals do not have to apply (though they can if they wish to do so). Irish citizens have a right of residence in the UK which is not reliant on the UK being a member of the EU.

What is the EU Settlement Scheme (EUSS)?

- The UK government introduced the Scheme to safeguard and regularise the status of EU nationals and their family members following the UK's withdrawal from the EU (Brexit).
- Under the Scheme EU nationals and their family members will have their rights to stay in the UK protected.
- The EUSS replaces all EU laws regulating the freedom of movement for EU nationals and their families in the UK.

Why is it important?

- EU nationals and their family members in the UK **MUST** apply for pre/settled status under the EU Settlement Scheme (EUSS) by **30 June 2021** (see exceptions below). This includes family members of Irish citizens who are not themselves Irish or British citizens. You and your family must be resident in the UK by **31 December 2020** (31 December 2025 for family members of Swiss nationals) (see below for those wishing to join EU family member after 31 December 2020).
- If you do not apply you will no longer have permission to live or work in the UK.

I already have Permanent Residence, do I still have to apply?

- Yes. Anyone who already holds a certificate of permanent residence still has to apply to transfer his or her permanent residence to that of 'settled status'.

I have Indefinite Leave to Remain, do I still have to apply?

- No. Some EU nationals who moved to the UK before 2006 may have been given indefinite leave to remain (usually stamped into their passport) under the UK Immigration Rules. If you retain your indefinite leave to remain and can prove it then you already have leave to stay in the UK under UK Immigration laws and do not have to apply to the EUSS.
- Individuals with ILR issued under the Immigration Rules may wish to apply as there are certain advantages of getting ILR under the EUSS as they will:
 - Receive up to date proof of their residence right (relevant if vignette is in an old passport);
 - Have better family reunion rights;
 - Be permitted to be absent from the UK for 5 years, instead of 2 years which is the maximum time permitted with ILR issued under domestic law, without losing their status.

How do I know if I have Permanent Residence or Indefinite Leave to Remain?

- Permanent residence is the term used for EU nationals and their family who have lived in the UK for at least 5 years and the EU national has been a 'qualified person' throughout that time. A qualified person is someone who has been working, studying, self-employed, self-sufficient or a job seeker.
- Permanent residence is something that is acquired rather than applied for but some EU nationals and their families applied to the Home Office (UK Visas and Immigration) for certificates of permanent residence so that they could easily prove their immigration status.
- If you have a certificate of permanent residence you still need to apply for settled status.
- Indefinite leave to remain is a type of leave given under the Immigration Rules. If you have indefinite leave to remain there is no time limit on your stay in the UK. A grant of indefinite leave to remain has to be applied for, it is not acquired. If you have been granted indefinite leave to remain you will have either a stamp in your passport, a paper document confirming your status or a biometric residence card. If you have indefinite leave to remain you do not need to apply for settled status.

Once I've applied to the EUSS scheme can I stay in the UK forever?

- If you (and/or your family members) have been in the UK for five years or more then you will be given 'settled status' which is the same as Indefinite Leave to Remain. Simply put, it means there are no time restrictions on your stay in the UK. You will not have to make any further immigration applications, unless you decide to apply to naturalise as a British citizen.
- If you and/or your family members have been in the UK less than 5 years you will be given 'pre-settled status'. You have the same rights and entitlements as someone with 'settled status' but you will need to make a second application when you have reached 5 years, this will be the application for 'settled status.'
- If you are absent from the UK for more than 5 years after being granted settled status, you will lose your status (2 years for pre-settled status).

My partner is from outside the EU, do they need to apply under the EUSS?

- Yes, family members living with you in the UK by 31 December 2020 must apply for pre/settled status if they wish to remain in the UK as the family member of an EU national. They must also make their application by 30 June 2021.
- It is still possible for close family members of EU nationals to apply to join their EU national family member in the UK after 31 December 2020 provided:
 - The relationship existed prior to 31 December 2020 (or before 31 December for spouses/civil partners of Swiss citizens); and
 - The relationship continues to exist at the date of application.
- For those that don't meet the criteria above after 31 December 2020, applications will need to be made under the UK immigration rules.

Who is counted as a family member?

- There are two types of family member under the EUSS: close family member and extended family member
- A 'close' family member includes:
 - Your spouse or civil partner.

- Children, grandchildren and great-grandchildren under 21 years of age. If over 21 years of age the 'child' must show that they are dependent on the EU national and/or their family member
- Dependent parent, grandparent or great-grandparent
- An extended family member includes:
 - Unmarried partners who can show they have lived together in a durable relationship for at least 2 years
 - Other dependent relatives (aunts, cousins, adult siblings etc.) or member of their household or in strict need of EEA citizen's personal care on serious health grounds; 'Dependency' must be proven.
 - Extended family members must hold a residence document under the EEA Regulations in order to apply under the EUSS. If they do not hold such a document, they must first apply for a document under the Regulations before applying under the EUSS. The cut-off date for applications under the Regulations is 31 December 2020.

I am from outside the EU, do I need to apply?

- If you have a family member who is an EU national then yes, you will need to apply if you wish to live in the UK on the basis of your familial relationship.
- You can make the application at the same time as your family member but you can also apply separately. You will need to provide evidence of your partner's nationality and your relationship.

My relationship with an EU national has broken down, can I still apply?

- You may be eligible to apply for settled or pre-settled status even if your relationship has ended. These types of applications are not straightforward and we would urge you to seek specialist legal advice before applying.

I/my partner is a British citizen and we lived in another European country before the UK, can we apply?

- Yes, there is special provision for UK nationals who have been exercising their freedom of movement rights in another EU country before returning to the UK.
- This is also known as the 'Surinder Singh' route after the legal case which set the precedent for such applications.
- You must have lived with your British partner in an EU or EEA country (or Switzerland) before 1 January 2021, and be:
 - their spouse, civil partner or unmarried partner
 - under 21 years old, and are their child or grandchild
 - 21 years or older, and are their dependent child or grandchild
 - their dependent parent or grandparent
 - another dependent relative
- The country that you lived in together must have been your main residence. Your British family member must also have been working, studying or self-sufficient in the country while there.
- The deadline for you to return to the UK depends on your relationship with the family member.
- You must return and apply by 29 March 2022 if you're:

- their spouse, civil partner or unmarried partner and your relationship started before 1 February 2020
- under 21 years old, and are their child or grandchild
- 21 years or older, and are their dependent child or grandchild
- Their dependent parent or grandparent
- You must return by 31 December 2020, and apply by 30 June 2021, if you're:
 - their spouse, civil partner or unmarried partner and your relationship started on or after 1 February 2020
 - another dependent relative
- These applications must be made using a paper form, which can be requested from the EU Resolution Centre by phone or online enquiry:
 - Telephone: 0300 123 7379
 - https://eu-settled-status-enquiries.service.gov.uk/start?_ga=2.98479130.488605073.1599043425-1545413949.1569415947

How do I apply?

- Most pre/settled status applications can initially be submitted using an app, downloadable to any smartphone that has Near-Field Communication technology (any Android 6.0 or above, any iPhone 7 or above) and online form.
- The app is called EU Exit: ID Document Check.
- In order to use the app you must have a biometric passport, meaning it must have a chip in it that can be scanned by your phone using the app. Non-EU family members can only use the app if they have a UK issued biometric residence permit.
- If you cannot use the app to verify your identity, you will need to attend a biometric appointment/post your ID document to the Home Office and complete the online form.
- You will also need your National ID number and basic personal details to hand.
- Once the initial application has been made online the Home Office may ask for you to upload additional documents to its website. You will be contacted if this information is required.
- Once the application is submitted, you will be sent a Certificate of Application, confirming that you have submitted the application and can remain in the UK while it is processed.
- You will be notified of the decision on your application by email.
- Some applications, where the relationship to an EU national is not straightforward, require a paper application form to be completed. If you think your application may fall into this category please seek legal advice.

What happens while my application is being processed?

- You can remain living and working in the UK while your application is processed.
- Non-EU family members are also able to remain in the UK while their application is pending, even if their current leave to enter/remain in the UK has expired.

Can I work while my application is being processed?

- EU nationals continue to have the right to work whilst their application is pending
- Non-EU family members may also have the right to work if they already had the right to work under EU law or under another category of the immigration rules.

Can I travel while my application is being processed?

- Yes, the UKVI guidance on EUSS applications specifically says that your application will not be considered withdrawn if you leave the UK while it is pending.
- You should carry your certificate of application with you when travelling, in case you are required to show it when re-entering the UK.
- Non-EU nationals who are non-visas nationals should however avoid travelling unless they have another valid form of visa/permission to be in the UK which will permit them re-entry to the UK as airlines will need to be satisfied of their permission to enter the UK.

I am an EU national working in the UK but I live in another EU country, do I need to apply?

- The UKVI refers to individuals in this situation as 'frontier workers'. At present, there is little Home Office guidance available on frontier workers, although their website does indicate that a frontier worker permit will be introduced later this year.
- In the meantime, the Home Office guidance confirms that you'll be able to keep your frontier worker status if you're frontier working in the UK by 31 December 2020. Applications will however need to be made for a frontier worker permit, once the scheme has launched, as a permit will be required for entry to the UK from 1 July 2021.
- Those seeking to begin work in the UK as frontier workers from 1 January 2021 will have to apply under the UK points based immigration system.

What happens to my pre/settled status if I leave the UK and live elsewhere?

- You can retain your pre-settled status for up to 2 years if you are living outside the UK. For those with settled status, they can retain it for 5 years.
- It is however important to note that those with pre-settled status will break their continuity of residence, and thus eligibility for settled status if they are absent from the UK for more than 6 months in any 12 month period, except where they have a single period of absence which did not exceed 12 months and was for an important reason (such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting); or Crown Service, compulsory military service or time spent working in the UK marine area.

What happens if my application is refused?

- Those who submitted their EUSS application after 11pm on 31 January 2020 will have a right of appeal against the refusal of their application.
- Those who made their application before 11pm on 31 January 2020 will not be given a right of appeal; they can apply for an administrative review of that decision which is conducted by the Home Office.
- There is nothing to stop a person for re-applying for pre/settled status if their first application is refused. The application is free of charge and there is no limit on the number of times a person can apply.

Delays in decision making

- We are currently noticing delays in decision making under the EU.
 - Straight forward applications are often taking up to one month to be decided
 - Complex applications can take 6-12 months (sometimes longer) to receive a decision
- If you are affected by delay, there are some steps that you can take to try and speed up the processing of your application.

- Contact the EU Settlement Resolution Centre (SRC)
 - The SRC can be contacted by phone (0300 123 7379) or online (<https://eu-settled-status-enquiries.service.gov.uk/start>)
- Make a complaint
 - To make a complaint, you can email the Home Office at public.enquiries@homeoffice.gov.uk or write to them at Home Office, Direct communications unit, 2 Marsham Street, London SW1P 4DF.
 - The Home Office aims to respond to applicants within 20 working days. If you remain unsatisfied, you can also ask your Member of Parliament to refer your case to the [Parliamentary and Health Service Ombudsman](#).
- Contact your MP
 - You can find out who your MP is here: <https://members.parliament.uk/members/Commons>
 - You can write to them to ask them to chase your application on your behalf, providing details about the delay and the problems you are experiencing
 - Make sure you provide them with your Home office application reference number
- Keep a record of all attempts to chase your application for future reference.
- If the above attempts fail to elicit a decision, you may wish to consider initiating judicial review proceedings to challenge the lawfulness of the delay. We would recommend you seek legal advice before doing so.

Proving your status

- If the application is successful, a letter will be emailed to the applicant confirming the outcome of his/her settled or pre-settled status application. This letter cannot however be used as proof of their immigration status.
- EU nationals will not receive a physical ID document; evidence of their status can be viewed and shared online: <https://www.gov.uk/view-prove-immigration-status>
- Non-EU family members will however have a physical document i.e. a BRP.
 - If they already have a BRP, they will not be issued with a new card. Instead, they can keep their current BRP card and upon expiry, apply for a replacement BRP under the EU Settlement Scheme. Alternatively, they can also apply for a replacement BRP card as soon as they receive their EUSS decision.
 - If they do not have a BRP they will be issued with a BRP card under the EU Settlement Scheme.