

Supporting European Economic Area (EEA) nationals who are destitute or at risk of homelessness

Guidance for local authorities

This factsheet provides information to help local authorities establish a person's support options when they are destitute or at risk of homelessness.

The UK residence rights and immigration requirements for European Economic Area (EEA) nationals and their family members have significantly changed following the UK's departure from the European Union (EU) and the end of free movement in the UK.

EEA nationals and their family members who did not apply to the EU Settlement Scheme before the end of the grace period (30 June 2021) will now be unlawfully present in the UK and at risk of losing access to benefits, employment, and other entitlements, although may be able to make a late application if they can show that they have a reasonable excuse for missing the deadline. People with pending EU Settlement Scheme applications should be able to retain their entitlements whilst they are waiting for a decision.

The Independent Monitoring Authority for the Citizens' Rights Agreement (IMA) has emphasised that local authorities will play a key role in upholding the rights of EEA nationals that are set out in the Withdrawal Agreement and agreements with EFTA states. On 30 June 2021, [the IMA reminded public bodies](#) 'of the need for care in considering the status of citizens who have applied to the EUSS but have not yet received the results of their application', and on 27 August [warned that](#) 'better understanding of the rights of late applicants to the EU Settlement Scheme (EUSS) is required to avoid potential hardship for individuals'.

With some EEA nationals unable to access benefits, local authorities will need to consider whether statutory duties are engaged to provide accommodation and financial support when a person or family are destitute or at risk of homelessness. Any increase in demand for this 'safety-net' support will give rise to significant pressures on local government, and people who do not qualify for such assistance may be at risk of rough sleeping. We will continue to raise these impacts with central government and request that local authorities make us aware of any challenges they are experiencing when providing assistance to this group.

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1. Immigration status and entitlements

European free movement no longer applies in the UK. EEA nationals and their family members are now subject to the same immigration laws and entry requirements as non-EEA nationals. However, the residence rights and entitlements of EEA nationals and their family members who were living in the UK before the end of the transition period are protected by the Withdrawal Agreement.

EEA nationals and their family members who were living in the UK by 11pm on 31 December 2020 had until 30 June 2021 to apply to the EU Settlement Scheme to obtain settled or pre-settled status. Those who can demonstrate that they have a reasonable excuse for missing the deadline may be able to make a late application.

This section summarises the rights and entitlements an EEA national will have depending on their immigration status and refers to government guidance on the [right to rent](#), [right to work](#) and [overseas visitors charging for NHS secondary and community care](#). For a useful summary of the services people can access, see the [rights table published by the 3 million](#). For more detailed information about benefit and housing entitlement, see section 2.

What type of immigration status could an EEA national have?

Key groups:

- Granted settled or pre-settled status under the EU Settlement Scheme.
- Pending 'in-time' EU Settlement Scheme application (made before the deadline of 30 June 2021).
- Pending late EU Settlement Scheme application.
- Granted leave to enter on/ after 1 January 2021 to visit, work, or study etc.
- Family members with an EU Settlement Scheme Family Permit
- Unlawfully present – a person will be in this position if one of the following scenarios apply:
 - They have an entitlement to apply to the EU Settlement Scheme but missed the deadline to apply.
 - They are refused status under the EU Settlement Scheme (and any subsequent appeal is unsuccessful).
 - They have overstayed a grant of leave to enter or remain.

Settled and pre-settled status

See Appendix A.4 for information about settled and pre-settled status.

'In-time' EU Settlement Scheme application

Government guidance states that a person can rely on their Certificate of Application whilst their application is pending to show that they have the right to work, right to rent, and entitlement to free secondary healthcare.

Although the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) [Regulations 2020](#) (the 'Grace Period Regulations') only preserve the lawful status and entitlements of a person if they were exercising a right to reside on 31 December 2020 and made their EU Settlement Scheme application before the deadline of 30 June 2021, the Home Office does not distinguish in the Certificate of Application whether a person was exercising a right to reside or not on 31 December 2020. Therefore an application made before the deadline appears to protect a person's entitlements. Additional right to reside tests will need to be satisfied in order to qualify for benefits or homelessness assistance.

Unlawfully present – entitled to apply to the EU Settlement Scheme

An EEA national who was living in the UK by 31 December 2020 but has not applied to the EU Settlement Scheme will be unlawfully present in the UK. They will be at risk of losing access to pre-existing employment and benefits, and will not be able to apply for new employment or benefits, rent from a private landlord (in England), open a bank account, hold a driving licence, or access free secondary healthcare.

However, if a person can show that they have reasonable grounds for failing to meet the deadline, the Home Office will accept a late application. Examples of 'reasonable grounds' are given in the [Home Office caseworker guidance](#). It appears that late applications are likely to be accepted from children, people who lack mental capacity, and adults with care and support needs. For more information, see section A.1 in the Appendix.

When an EEA national without leave to remain is encountered by Immigration Enforcement, they will be provided with a written notice giving them an opportunity to make a late application within 28 days if they are identified as someone who could have applied to the EU Settlement Scheme. No enforcement action will be undertaken during the 28 day period. The person will need to demonstrate that they have reasonable grounds for failing to meet the deadline if they make an application and will need to seek legal advice as soon as they are issued with the notice. This policy is outlined in the [Home Office caseworker guidance](#).

A person who failed to apply before the deadline may not immediately lose access to employment or some services, including pre-existing benefit claims. Employers and landlords are not required by the Home Office to make retrospective checks, although if a person is identified as not having applied to the EU Settlement Scheme, they will need to take action to make a late application or risk losing their entitlements.

Late EU Settlement Scheme application

On 6 August 2021, the Government [announced](#) that people who make a late application will be granted temporary protection whilst their application is pending. Government guidance confirms that a person can rely on their Certificate of Application as evidence that they can work, have the right to rent, or access free secondary healthcare.

At the time of writing temporary protection for people making late applications has not been set out in legislation. Additional right to reside tests will need to be satisfied in order to qualify for benefits or homelessness assistance.

Entered the UK on/after 1 January 2021

EEA nationals who are not entitled to apply to the EU Settlement Scheme are required to obtain leave to enter under the Immigration Rules for a specific purpose, such as to visit, work, or study.

A person entering the UK as a visitor will not need to apply for a visa in advance of their arrival and can use a biometric passport to enter through e-gates. Visitor leave is granted for six months and is subject to conditions prohibiting work, study, and access to public funds (benefits and housing assistance). For more information, see the Home Office [guidance for visitors from the EEA](#).

A person who wants to study, work, or join family in the UK will need to obtain a visa in advance of their arrival. E-visas that can be accessed online will be issued to EEA nationals rather than physical status documents. For more information, see the Home Office guidance about [the UK's points-based immigration system: information for EU citizens](#).

Family members entering on/after 1 January 2021

Certain family members of an EEA national with settled status or pre-settled status will be entitled to apply to the EU Settlement Scheme, instead of obtaining leave to enter under the family migration rules. This only applies to close family members where the relationship existed on 31 December 2020 and continues to exist, and future children. Close family members are limited to:

- Spouses, civil and unmarried partners
- Dependent children and grandchildren
- Dependent parents and grandparents (dependency needs to be proven)

For more information, see the Home Office [guidance for family members](#).

Non-EEA national family members can obtain an [EU Settlement Scheme family permit](#) in order to enter the UK for this purpose. They must apply to the EU Settlement Scheme within three months, although they may be able to make a late application if they have a reasonable excuse for not applying in time.

2. Eligibility for benefits and homelessness assistance

This section summarises the basic principles that apply to determine whether an EEA national will qualify for means-tested benefits or homelessness assistance (Part VII Housing Act 1996 in England). As benefit and homelessness eligibility rules can be complex, an EEA national may require specialist advice, particularly following a refusal of a claim.

Eligibility decisions that are based on the person exercising a right to reside, or qualifying right to reside, will be made in line with the Immigration (European Economic Area) Regulations 2016, as they were in force on 31 December 2020 and subject to any amendments.

For the purpose of this section, 'benefits' refers to means-tested benefits, such as Universal Credit, Housing Benefit, Income-related Employment and Support Allowance, and Pension Credit.

Different eligibility rules apply to a Personal Independence Payment, Disability Living Allowance, Attendance Allowance, and Carer's Allowance. A person who is ineligible for means-tested benefits may be able to claim these if they are lawfully present in the UK. However, such benefits are not intended to cover housing and/ or basic living costs, so a person may be at risk of destitution and homelessness if they are reliant on one of these benefits as their only source of income.

The full eligibility rules for homelessness assistance in England are set out in [chapter 7 of the Homelessness code of guidance](#). Different housing eligibility rules apply in Wales, Scotland, and Northern Ireland.

Settled status

A person with settled status (indefinite leave to remain) will be eligible.

Pre-settled status

A person with pre-settled status will need to demonstrate that they are exercising a qualifying right to reside in order to be eligible, such as the right to reside as a worker, self-employed person, or family member of a worker/ self-employed person.

A person may not qualify for benefits or homelessness assistance if they are unable to work due to a disability, health issue, or caring responsibilities. A person will not qualify if their only right to reside is as the primary carer of a British child (Zambrano carer). People with pre-settled status who are in these groups are likely to be at high risk of homelessness and destitution, and may be unable to qualify for benefits until they obtain settled status.

In the case of *Fratila v the Secretary of State for Work and Pensions*, the Court of Appeal ruled that the Universal Credit eligibility regulations unlawfully prevent people from being able to rely on their pre-settled status as a qualifying right to reside. The Government has appealed against this decision to the Supreme Court and the case is currently ongoing. Anyone with pre-settled status who has been refused Universal Credit should seek advice about challenging this decision or make an application if they have not previously applied. For more information, see the Child Poverty Action Group's [summary of the case](#), which includes a link to a useful guidance note for benefit advisers. See also the DWP [guidance note for housing benefit assessors](#).

A person can rely on their pre-settled status to meet the residence requirement for Personal Independence Payment, Disability Living Allowance, Attendance Allowance, or Carer's Allowance.

Pending 'in-time' EU Settlement Scheme application

The [DWP has confirmed](#) that a pre-existing benefit claim will continue until the person receives a decision on their application, providing that they continue to qualify for the benefit in question.

For new benefit claims, evidence of an 'in-time' application will not in itself be sufficient in order to establish eligibility. When a person has a pending application, they will only qualify if they meet the following two tests:

- They were exercising a right to reside on 31 December 2020.
- They are exercising a qualifying right to reside at the time of their benefit application. (See the section on 'pre-settled status' for more information about a 'qualifying right to reside'.)

A person will be able to meet the residence requirement for Personal Independence Payment, Disability Living Allowance, Attendance Allowance, or Carer's Allowance if they were exercising a right to reside on 31 December 2020.

A person who was not exercising a right to reside on 31 December 2020, or did have a right to reside but is unable to demonstrate a qualifying right to reside at the time of making a benefit claim, will be at high risk of homelessness and destitution whilst their EU Settlement Scheme application is pending.

Pending late EU Settlement Scheme application

When a person makes a late application, any pre-existing benefit claims should continue until they receive a decision on their application, providing that they continue to qualify for the benefit in question.

The position for new benefit claims is set out in [Housing Benefit adjudication circular A10/2021](#), which states, at paragraph 12:

Where a claimant has received a certificate of application from the Home Office, local authority (LA) Decision Makers should accept that the claimant has submitted a late application which has been verified and validated by the Home Office and treat it the same way as those who submitted an EUSS application before 30 June 2021. These individuals can access HB and other income related benefits until the outcome of their application has been decided or they have exhausted their appeal rights.

[The Homelessness Code of Guidance for local authorities](#) (applicable in England) states, at paragraph 7.34(a):

In line with the Withdrawal Agreements, late applications to the EU Settlement Scheme will be accepted where there are reasonable grounds for missing the 30 June 2021 deadline. An applicant who has made a valid application for the EU Settlement Scheme and is awaiting a decision, who was resident and exercising a qualifying right to reside in the UK by 31 December 2020 should be treated as eligible if they have a permanent right to reside (normally acquired after 5 years), or are working, self employed or a Baumbast Carer at the time of their application for homelessness assistance.

Once a person has evidence that they have made a late application, this guidance suggests that they will be eligible for benefits and homelessness assistance if they meet the right to reside tests that apply to a person who has made an 'in-time' application.

If a person cannot satisfy the right to reside requirements, they will be at high risk of homelessness and destitution whilst their EU Settlement Scheme application is pending.

Unlawfully present – entitled to apply to the EU Settlement Scheme

EEA nationals who are currently receiving benefits will have already been contacted by the Home Office or Department for Work and Pensions (DWP) to remind them to apply to the EU Settlement Scheme. Anyone who fails to make a late application within the given timeframes will be at risk of having their benefit claim suspended and stopped.

A person who is unlawfully present will be 'subject to immigration control' (section 115 Immigration and Asylum Act 1999) and excluded from claiming public funds (benefits and housing assistance). They will be unable to make a new benefit or homelessness application unless they submit a late application to the Home Office.

Leave to enter as a visitor, student or worker (granted on/after 1 January 2021)

A person with leave to enter to visit, study or work in the UK will be subject to the 'no recourse to public funds' (NRPF) condition. They will be subject to immigration control and will be excluded from claiming any benefits classed as public funds, or assistance under Parts VI and VII of the Housing Act 1996.

However, an exemption may allow nationals of some EEA states to claim Housing Benefit or Pension Credit whilst they have leave that is subject to the NRPF condition. This exemption does not apply to Universal Credit. For more information, see the Child Poverty Action Group's [article about advising EEA nationals](#).

Further information: benefit and homelessness eligibility rules

The following organisations provide more information about benefit and/ or housing eligibility rules:

- [Citizens Advice](#)
- [Child Poverty Action Group](#)
- [Housing Rights Information](#)
- [Shelter legal](#)

3. Support for EEA nationals who are ineligible for benefits

When a person is destitute or at risk of homelessness, and is ineligible for benefits and homelessness assistance (Part VII Housing Act 1996), the local authority may have a duty to provide accommodation and financial support.

In England, social services can provide accommodation and financial support when the following duties or powers are engaged:

- Section 17 of the Children Act 1989 – families with a child under 18
- Leaving care provisions of the Children Act 1989 – former looked after children up to age 21 (or 25 if in education/ training)
- Sections 18 or 19(1) of the Care Act 2014 – adults with care and support needs
- Section 117 of the Mental Health Act 1983 – adults being discharged from compulsory detention under the Mental Health Act 1983

Different legislation, enabling similar interventions, applies in Wales, Scotland and Northern Ireland.

Adults who are sleeping rough or are otherwise homeless will not qualify for social services' support if they do not have care needs, and therefore have limited support options. Local authorities in England will need to consider whether powers to provide accommodation on public health grounds are engaged (s.138 Local Government Act 1972 & s.2B National Health Services Act 2006). For more information, see our factsheet: [Supporting people with no recourse to public funds during the coronavirus \(Covid-19\) pandemic](#). Housing authorities may have established some accommodation provision for people who are ineligible for benefits through utilising government funding streams or in partnership with voluntary and community sector providers.

When will a family or adult qualify for social services' support?

For families with a child under 18, eligibility for accommodation and financial support provided under section 17 of the Children Act 1989 is determined through a child in need assessment. A child will be in need if the family are destitute or at risk of homelessness and have no access to benefits or other resources to cover their housing and living costs. For more information, see our [web page about social services' support for families](#).

For adults, eligibility for accommodation and financial support provided under the Care Act 2014 is determined through a needs assessment. Assistance may only be provided to adults when they have care and support needs that arise from, or are related to, a physical or mental impairment or illness. Social services are not required to meet needs that arise solely due to the adult's situation of destitution. For more information, see our [web page about social services' support for adults](#).

Emergency support can be provided to a family or adult whilst the relevant needs assessment is carried out.

When is a human rights assessment required?

Schedule 3 of the Nationality, Immigration and Asylum Act 2002 places a bar on the provision of support under the Care Act 2014 or section 17 of the Children Act 1989 when a person, who is 'in breach of immigration laws', can return to their country of origin to avoid a human rights breach that may arise due to their destitution in the UK.

When Schedule 3 applies, social services will carry out a human rights assessment to determine whether there are any legal or practical barriers preventing the person from returning to their country of origin. When there are no barriers preventing return, the local authority may refuse or withdraw support on the basis that destitution can be avoided by return to country of origin.

When an EEA national is lawfully present a human rights assessment is not required and eligibility for social service's support will depend on the outcome of the needs assessment only. An EEA national will be lawfully present if they have one of the following types of immigration status:

- Settled status (indefinite leave to remain)
- Pre-settled status (five years' limited leave to remain)

- Pending EU Settlement Scheme application that was made prior to 30 June 2021 if person was exercising a right to reside on 31 December 2020 (i.e. their lawful status is protected by the Grace Period Regulations)
- EU Settlement Scheme family permit
- Leave to enter/ remain as a visitor, student, worker, or under another category of the Immigration Rules

A human rights assessment is only required when an EEA national is ‘in breach of immigration laws’. However, in practice there will be limited circumstances when the local authority will be able to withhold or withdraw support on the basis that an EEA national can return to their country of origin, due to the Government’s commitment in the Withdrawal Agreement to allow people with reasonable grounds for missing the EU Settlement Scheme deadline to be able to make a late application.

A human rights assessment can be undertaken in the usual way when a person is not entitled to apply to the EU Settlement Scheme and is ‘in breach of immigration laws’. This would apply to a person who has become an overstayer following the expiry of visitor leave or another type of leave to enter.

See our [guidance for councils](#) to access our new human rights assessment template and for more information about how to carry out a human rights assessment.

What help is available to a person who wants to return?

The Home Office may be able to assist an EEA national with a [voluntary return](#) if they are without lawful status or leave in the UK. A person with pre-settled status who wishes to return will not qualify for Home Office assistance.

When an EEA national expresses a wish to return to their country of origin, they should be provided with the opportunity to seek legal advice about how this will impact on their future residence rights and whether they will be affected by a re-entry ban.

4. Table: establishing eligibility for support

Immigration status of EEA national or family member	Means-tested benefits	Homelessness assistance (England)	Social services’ support (accommodation & financial support)	Human rights assessment needed? (When eligible for social services’ support)
Settled status	Eligible.	Eligible.	Child in need/ needs assessment	No
Pre-settled status	Will need to demonstrate a qualifying right to reside.	Will need to demonstrate a qualifying right to reside.	Child in need/ needs assessment	No

Immigration status of EEA national or family member	Means-tested benefits	Homelessness assistance (England)	Social services' support (accommodation & financial support)	Human rights assessment needed? (When eligible for social services' support)
Pending EU Settlement Scheme application ('in-time' or late)	<p>Already in receipt of benefits – will continue until application is concluded.</p> <p>New claim - will need to demonstrate: - a right to reside on 31 December 2020 AND - a qualifying right to reside when the application is made.</p>	<p>Will need to demonstrate: - a right to reside on 31 December 2020 AND - a qualifying right to reside when the application is made.</p>	Child in need/ needs assessment	No
Unlawfully present - entitled to apply to the EU Settlement Scheme	<p>Already in receipt of benefits - will stop if they do not submit a late application to the EU Settlement Scheme.</p> <p>New claim - will be ineligible.</p>	New application - will be ineligible.	Child in need/ needs assessment	No – see section 3
Valid leave to enter granted on/ after 1 January 2021 as a visitor, student or worker	Ineligible when leave is subject to the 'No Recourse to Public Funds' (NRPF) condition.	Ineligible when leave is subject to the NRPF condition.	Child in need/ needs assessment	No
Unlawfully present - overstayer following period of visitor/ student/ worker leave	Ineligible.	Ineligible.	Child in need/ needs assessment	Yes

Appendix: EU Settlement Scheme

The information in this appendix is a summary of the EU Settlement Scheme to help local authorities identify and support residents who need to make an application.

For full details, please refer to the following government information:

- [EU Settlement Scheme: introduction for local authorities](#)
- [EU Settlement Scheme applicant information](#)
- [EU Settlement Scheme caseworker guidance](#)
- [Appendix EU of the Immigration Rules](#)

A.1 Who needs to apply?

EEA nationals

Anyone who is a citizen of the countries listed in the table below needs to apply, including a person who holds an EEA permanent residence document.

European Union countries			
Austria	Estonia	Italy	Portugal
Belgium	Finland	Latvia	Romania
Bulgaria	France	Lithuania	Slovenia
Croatia	Germany	Luxembourg	Spain
Cyprus	Greece	Malta	Slovakia
Czech Republic	Hungary	Netherlands	Sweden
Denmark	Ireland	Poland	
Other EEA countries		Other agreements	
Iceland	Lichtenstein	Norway	Switzerland

All references to 'EEA nationals' in this document include Swiss nationals.

The following people do not need to apply but may do so if they wish:

- Irish citizens – although any family members who do not hold Irish or British citizenship will need to apply.
- A person who already holds indefinite leave to remain.

Family members

Family members of EEA citizens will also need to apply. The family member may be an EEA national themselves or citizen of a non-EEA country.

Family members include:

- Spouse, civil partner or certain unmarried (durable) partners
- Child, grandchild, great-grandchild under 21 (or older if dependent on the EEA national or their spouse/ civil partner)
- Dependent parent, grandparent or great-grandparent
- Other dependent relatives in certain limited circumstances
- A person who has a retained right of residence
- A person with a derivative right to reside, i.e.:

- A child of an EEA former worker where the child is in education or the primary carer of such a child (Teixeira and Ibrahim)
- The primary carer of a self-sufficient EEA citizen child (Chen)
- The non-EEA primary carer of a British citizen who would otherwise be required to leave the EEA (Zambrano)

Zambrano carers

Until 30 June 2021, a non-EEA national primary carer of a British citizen, usually a child, had a derivative right to reside under European law as a Zambrano carer. The EU Settlement Scheme has been open to Zambrano carers but a Home Office policy prevented Zambrano carers from being able to obtain pre-settled or settled status if they had already been granted a different form of leave to remain under the Immigration Rules, such as under Appendix FM as the sole carer of a British child.

A [recent High Court decision](#) has found this policy to be unlawful. The Home Office is currently in the process of appealing this decision so it is not clear what the final outcome will be, but people who are affected may need to take action now. Anyone who had a derivative right to reside as a Zambrano carer on 31 December 2020 may be able to apply to the EU Settlement Scheme even though the deadline has passed. For some Zambrano carers, there will be clear advantages of obtaining status under the EU Settlement Scheme, but for others there could be disadvantages. Therefore any individual who may be affected should seek legal advice about how to proceed. This includes anyone who has previously applied to the EU Settlement Scheme and has been refused or has previously been advised that they cannot apply because they already have leave to remain. For more information, see [Hackney Migrant Centre's guidance note](#).

Children in care and care leavers

Local authorities are required to ensure that EEA children in care (under a care order or voluntary care), are identified and assisted to make applications under the EU Settlement Scheme. Where the local authority holds parental responsibility for a child, it must apply on the child's behalf.

Legal advice may need to be obtained for a child, which should explore all of their available options, including applying for British citizenship.

For care leavers age 18 or older, the local authority may need to fund legal advice as legal aid will not be available. When a care leaver is entitled to leaving care support, the local authority may need to fund accommodation and financial support if the care leaver is ineligible for benefits. See section 3 for information about benefit entitlement.

For more information about assisting children in care and care leavers to apply, see the following Home Office guidance:

- [EU Settlement Scheme: looked-after children and care leavers guidance](#)
- [EU Settlement Scheme – Home Office Looked After Children and Care Leavers Survey, 2020](#)

The following organisations provide information that is specific to children and care leavers:

- [Coram Children's Legal Centre website](#)
- [PRCBC information about British citizenship for EEA children](#)

Adults with care and support needs

The Home Office caseworker guidance includes information about assisting adults to apply who have care and support needs, including adults who lack capacity, are living in residential care or are receiving care in the community. For more information, see the [Home Office caseworker guidance](#).

Late applications

The deadline to apply to the EU Settlement Scheme was 30 June 2021. The Home Office will only accept an application made after this date if the person can show that they have reasonable grounds for making a late application. This will be considered on a case by case basis. The [Home Office caseworker guidance](#) provides information about when a late application 'will normally' be accepted and what evidence the person must submit to demonstrate that they have a reasonable ground for applying after the deadline.

The guidance states that a late application will normally be accepted from a child (including a child in care, care leaver and child who is now an adult), where a parent, guardian or local authority has failed to apply on their behalf.

The guidance also states that a late application will normally be accepted when a person:

- Lacks the physical or mental capacity to apply.
- Has care and support needs and is residing in a residential care home or is receiving care and support services in their own home.
- Had a serious medical condition (or was undergoing significant medical treatment) in the months before/ around the time of the deadline.
- Is a victim of modern slavery or human trafficking.
- Is/was a victim of domestic abuse or is/ was in a controlling relationship or situation which prevented them from applying.
- Can demonstrate other compelling or compassionate reasons, such as failing to apply due to a lack of permanent accommodation in certain circumstances, or being unable to obtain evidence of identity and nationality or residence.

A.2 Eligibility for settled status

A person will be eligible for settled status when they have completed five years' continuous residence, subject to suitability checks.

Continuous residence

A person needs to show that they have been continuously resident in the UK for five years in order to be granted settled status. This does not need to have been the five-year period preceding the date of application. The person cannot have been absent from the UK for more than 6 months in total in any 12-month period that they are relying upon. All periods of absence will be counted, although some exceptions to this rule apply. There will also be some instances when a person can obtain settled status without having completed five

years' continuous residence, for example, a child under 21 of an EEA national who has obtained settled status.

A person who has been continuously resident for less than five years when they apply will be eligible for pre-settled status. They may apply for settled status any time after they have completed five years' continuous residence and must ensure that this is done before their leave to remain expires.

As there is no requirement to have exercised free movement rights, for example, as a worker or self-employed person, there are several groups of people who should be able to obtain settled status who may not have been able to demonstrate a permanent right of residence under European law, for example, people who are unable to work due to a disability, illness or caring responsibilities.

Suitability requirements

The Home Office can refuse an application for settled or pre-settled status when the suitability requirements apply. Full details are set out in the [Home Office caseworker guidance \('EU Settlement Scheme: suitability requirements'\)](#).

A person will be refused if, at the date of decision, they are: subject to a deportation order, decision to make a deportation order, exclusion order or exclusion decision.

The Home Office may also exercise its discretion to refuse an application if it is proportionate to do so in certain circumstances, for example, when the person is has submitted false or misleading information or is subject to a removal decision made under the EEA Regulations on the basis that they are not exercising or are misusing their EU free movement rights.

A.3 Application process

The majority of applicants will need to apply online. There is no fee for the application.

Some people are required to apply using a paper form, such as a person with a derivative right as a Zambrano carer or when alternative evidence of identity is being submitted. Paper forms can now be [downloaded from gov.uk](#).

A parent will be able to apply on behalf of a child and a local authority will be required to apply on behalf of a child when it has parental responsibility.

Evidence

The following documents will be required:

- A valid passport or ID card (EEA nationals)*
- A valid passport or Biometric Residence Permit/Card (non-EEA family members)
- Evidence of relationship to the EU national (non-EEA and some EEA family members)
- Evidence of the EEA national's identity and residence (non-EEA family members)
- Evidence of residence:

- HMRC and DWP records will be checked to confirm residency in the UK but if these do not exist or do not cover the full period, the person will be invited to provide other evidence of residence.
- Other evidence of residence must be from an ‘official or impartial’ source, with examples listed in [Home Office guidance on evidence of residence](#). Letters from friends or relatives will not be accepted.
- A person who has already obtained a permanent residence card or indefinite leave to remain will not need to provide evidence of their residence.

* The Home Office may permit alternative evidence of identity to be provided when a person is unable to obtain or produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons. Specific information as to when this may apply to people who lack capacity and children in care is set out in the [Home Office caseworker guidance](#).

Evidence that people receiving social services’ support can provide to confirm their residence include:

- Letter from a registered care home
- Letter from a local authority confirming the length of its involvement with the person

If this does not cover the full five years then the person may need assistance with obtaining documents for any period of residence prior to the local authority’s involvement.

Home Office caseworkers have the discretion to contact applicants who may need to submit additional evidence or to address any omissions before making a decision.

Home Office assistance

The Home Office has set up various services to help applicants who need assistance to apply.

A person with a general enquiry can contact the [EU Settlement Resolution Centre telephone helpline](#) or [email enquiry service](#).

A person who does not have a suitable Android device to scan and upload their ID document can attend a council that has a document scanner service. This may incur a small fee. The Home Office publishes a [list of councils with ID document scanners](#).

A person who does not have the appropriate access, skills or confidence to complete the application may be able to get [Assisted Digital Support](#) from the Home Office.

A.4 Application outcomes & entitlements

Table: entitlements a person will have when they are granted settled status or pre-settled status.

	Settled status (5 years’ residence)	Pre-settled status (Less than 5 years’ residence)
Status granted	Indefinite leave to remain	Limited leave to remain for 5 years
Permitted absence from the UK	Will be retained if the person returns to the UK after an absence which is less than 5 years.	Will be retained if the person returns to the UK after an absence that is less than 2 years but this may affect their entitlement to settled status (see below).

Qualifying for settled status after being granted pre-settled status	N/A	<p>May apply as soon as have lived in the UK for 5 years, regardless of when pre-settled status was granted.</p> <p>May not obtain settled status if they:</p> <ul style="list-style-type: none"> • Are absent from the UK for more than 6 months out of any 12-month period (some exceptions apply) • Are a non-EEA national family member and do not maintain or retain their family relationship with the EEA national (in some cases)
Employment	Permitted – unrestricted	Permitted - unrestricted
Benefits, homelessness assistance and a local authority allocation of social housing	Can rely on their settled status to meet eligibility tests.	Cannot rely on their pre-settled status to meet eligibility tests. Eligibility will be dependent on exercising a qualifying right to reside, for example, as a worker or family member of a worker. Some groups will not be eligible. Different housing eligibility rules apply in Wales, Scotland and Northern Ireland.
Documentation issued	<p>EEA national:</p> <ul style="list-style-type: none"> • Digital evidence – no physical document issued <p>Non-EEA national family member:</p> <ul style="list-style-type: none"> • Digital evidence and biometric residence document 	
Right to be joined in the UK by family members	<ul style="list-style-type: none"> • Certain close family members, where the relationship existed on 31 December 2020, and future children may apply under the EU Settlement Scheme at any time. Non-EEA national family members will need to obtain an EU Settlement Scheme Family Permit to enter the UK. • Other dependent relatives and future spouses/partners will be subject to the more stringent requirements of the Family Migration (FM) Immigration Rules. 	

Challenging a refusal

When an EU Settlement Scheme application is refused, the person will be able to request an [administrative review of the decision](#) or lodge an appeal against the refusal.

These options are also available to a person who is granted pre-settled status but qualifies for settled status.

A.5 Access to legal advice and other assistance

The Office of the Immigration Services Commissioner (OISC) has provided [guidance for EU Settlement Scheme advisers](#) that must be referred to in order to establish whether a person can be assisted to apply by a level one adviser. Vulnerable residents, people with complex cases, and people who are making late applications when they do not clearly meet the reasonable grounds threshold will require the assistance of a level two adviser.

In England and Wales, [legal aid](#) is not available for EU Settlement Scheme applications made by adults, children within families, and care leavers age 18+. Looked after children,

and children who are separated from their parents or do not live with a person who has parental responsibility for them, will be able to access legal aid, subject to a means test.

The Home Office has published [a list of organisations in England that have been funded to help people to apply](#).

The Welsh Government has published [a list of organisations in Wales that can advise on the EU Settlement Scheme](#).

The Scottish Government has published [online information to assist EEA nationals living in Scotland](#).

The Mayor of London has published a [series of resources for advisers produced by Here for Good](#), including information about complex cases and working with the homeless. Information about the EU Settlement Scheme on the [European Londoners Hub](#) can be accessed by anyone in the UK.

See also the EU Citizens rights [database of local organisations that assist EEA nationals](#).

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