

Rights of EEA nationals – factsheet

EU nationals living in the UK have the same rights now as before Brexit. This will continue to be the case until the end of the transition period (while the UK and EU negotiate additional arrangements) which is expected to end on 31 December 2020. EU nationals and their family members can also still come to work and settle in the UK up until the end of the transition period.

In order to keep your right to live, work, study and claim benefits in the UK you must register with the EU Settlement Scheme (follow this link). The deadline to register is 30 June 2021. You will need to show that you were resident in the UK before 31 December 2020. – *please read section on next page for more on ‘should I apply during lockdown’*

What are my rights (as an EU national) right now if I haven’t registered with the EU Settlement Scheme yet?

Any EEA (EU) national living in the UK, **and** their family members, have the following rights:

- Right to remain in the UK for an initial period of 3 months
- Right to work
- Right to study (enrol into training, enrol into a course of study or continue to study)
- Right to travel in and out of the UK
- Right to use the NHS

However, after 3 months of initial residence the above rights end if you do not start to “exercise your treaty rights”.

Exercising treaty rights means:

- You work as an employee of someone else, or
- You carry out work as a self – employed person, or
- You are a self-sufficient person, meaning you have enough money to support yourself without working or claiming benefits or
- You are a student with comprehensive sickness insurance

Also, in certain circumstances EU nationals can continue to have rights of residence in the UK upon ceasing work or self-employment in the UK due to retirement or permanent incapacity.

Your right to benefits

EU nationals and their family members can claim benefits and social assistance, such as homelessness support.

For means-tested benefits, including Universal Credit, you need to show that you have the right to reside and that you are habitually resident in the UK (this usually involves proving that you have a right to reside and that the UK is your main home and you plan to stay here).

If you have settled status then you automatically have a right to reside. If you can prove you have been here for more than 5 years you will also satisfy this test. Otherwise you will have to show that you are exercising treaty rights and therefore have an EU right to reside.

You may be able to derive eligibility to benefits if you have family members who have worked in the UK or are working in the UK. You may also be eligible if you are the primary carer of an EEA national child.

If you have been in the UK for less than 5 years or have pre settled status you may not always be eligible for benefits.

If you're refused benefits don't assume the decision is correct – get advice on whether you're eligible and on how to challenge the refusal (appeal): [Bristol Law Centre can help with this – see the end of this document for contact details.](#)

Should I apply for EUSS during lockdown?

Yes, you can apply via the App but there are likely to be delays in processing your application due to the current situation.

You should be able to prove your identity using the app if your passport or national identity card includes this symbol:



After you submit your application, then the Home Office should issue a Certificate of Application (CAO) which states your rights and with this certificate you can prove that you submitted your application and it is being processed.

Under normal circumstances you could send your identification document to the Settlement Resolution Centre (SRC) to confirm your identity or prove your residency, since Covid-19 restrictions were put in place you can now only do this if the Home Office ask you to do so.

Alternatively, under normal circumstances you could scan your documents at allocated scanning centres. The scanning centres that you used to be able to take your documents are currently closed.

This means that if you are unable to prove your identity by scanning your documents using the EUSS app then you will need to contact the Home Office online using their [contact form \(link here\)](#) to request a paper form so that you can apply by post .

If your document has the above symbol, then you can complete your Settlement status application via the App. The App is called EU Exit: ID document check app. You can download this App for free. It is available on android and Apple phones (Apple phone 8) as well.

Options for non-EU family members of EEA nationals

Spouses, civil partners, children aged under 21, dependent children aged over 21 and dependent parents or grandparents of EEA nationals (or of the EEA national's spouse/civil partner) can apply to the EU Settlement Scheme as family members of EU nationals. If granted, they will have the same rights as EU nationals. If you are separated but not divorced from your EU national spouse, you are still counted as a family member and can apply.

Other relatives of EU nationals and unmarried partners can also apply for the right of residence. These people are called extended family members and need evidence to show their relationship to the EU national. Unmarried partners need to convince the Home Office they are in a durable relationship with the EU national. Relatives must show either that they are dependent on the EU national, or that on serious health grounds they strictly require personal care from the EU national or that they were a member of the EU national's household in their home country.

In some circumstances British nationals can be treated as EEA nationals where the British citizen and their non-EEA national partner have exercised treaty rights in an EEA national country, then want to live together in the UK. These are called "Surinder Singh" cases. The Home Office will want to see evidence of genuine residence in the EEA country and the reasons for that residence. The longer the couple lived together in the EEA national country, the more likely it is that the application will be successful.

If you do not meet the definition of a family member or extended family member, you may still have rights under European law, for instance if you look after your children who are European nationals living in the UK.

Derivative rights are used by people who do not qualify for a right of residence under the Free Movement Directive 2004/38/EC but might qualify for another right of residence under EU law.

There are a number of ways to claim a derivative right of residence:

➤ **Zambrano rights**

A person can apply for residence if he/she is the primary carer of a British citizen child or dependent adult, where requiring the primary carer to leave the UK would force that British citizen to leave the European Economic Area (EEA).

➤ **Chen rights**

A person can apply if he/she is the primary carer of an EEA national child who is exercising free movement rights in the UK as a self-sufficient person, where requiring the primary carer to leave the UK would prevent the EEA national child exercising those free movement rights. You would need to provide financial evidence that the child is self-sufficient.

➤ **Ibrahim and Teixeira rights**

A person can apply if he/she is the primary carer of a child of an EEA national worker or former worker. The child and the EEA national parent must have both been in the UK at the same time at some point since the child's birth. The child must be in education (not including nursery education) in the UK. You must show that requiring the primary carer to leave the UK would prevent the child from continuing their education in the UK.

- For any of the categories above, where the adult applying has another dependent child who does not have a right of residence of their own, that child can also apply for a derivative right of residence. The child must show that requiring the child to leave the UK would force the primary carer to leave the UK with them.

A person who is claiming a derivative right of residence in any category above cannot apply using the App. You need to use an [online contact form](#) to request a paper application form from the EU Settlement Scheme Resolution Centre. When you get to the free text box where you are invited to type your question explain which application you want to make and why you think you are eligible to apply. You will need to provide your name and email address. You should then be sent a paper form to complete. This will be issued in your own name. You will need to provide evidence that you are the primary carer and that your child is either British, or an EEA national or the child of an EEA national worker/former worker. You will also need to provide evidence that your child is in education in the UK.

Any non-EU national applying to the EU Settlement Scheme is normally required to attend a scanning centre for biometric enrolment. All these scanning centres are currently closed. The Home Office has indicated that applications lodged now will be held until such time as the scanning centres can re-open. It is therefore worth submitting your application but be aware there is likely to be a delay in a decision being made.

Preparing your EUSS application - What can I do to get ready to apply?

Everyone needs to prove their identity through a valid identity document. This means a national passport, national identity card or a Biometric Residence Permit. If you do not have a valid national passport or ID card you will need to apply for one from your embassy. There are likely to be delays with this at the moment, so check your embassy website for advice.

If you do not have a valid national passport or ID card and have an urgent need to apply for Settled Status now but your embassy is closed then you may wish to try using the online contact form to ask if you can submit a paper application without a valid national passport or ID card.

Once you have proved your identity, you need to prove how long you have lived in the UK. The EUSS App will run a check on your National Insurance number with the DWP and HMRC. If your work, tax and benefits history show that you have lived in the UK for the amount of time you are claiming to have lived here, then you will not need further evidence of your residence. If you have gaps in your national insurance record you may need to find further evidence to prove your residence.

- If you have lived in the UK for less than 5 years you need one piece of evidence to show that you live in the UK that is not older than 6 months. For instance, a Council Tax bill or a bank statement.
- If you have lived in the UK for more than 5 years you will potentially need five years of evidence.

Evidence of residence can include any official correspondence that shows you have been in the UK. The following items are often useful:

- Bank statements
- Wage slips
- Council tax statements
- Working Tax Credit letters
- Letters from DWP
- Letters from your GP
- Child Health Record
- Letters from your children's school – you can request a letter to confirm how long they have been enrolled at school and a report on their attendance
- Children's British birth certificates
- Tenancy Agreements/mortgage documents
- UK marriage certificate

If you have been in the UK for less than five years you should be granted Pre-Settled status.

If you have been here for five years or more, you should be granted Settled Status – this means you can live here permanently.

I've got Pre-Settled Status and I want to apply for full settled status

You normally need to wait five years since being granted Pre-Settled Status. Your Pre-Settled Status certificate will state the date when you can apply for Settled Status. You will then need to submit a new application.

However, if you can show that you satisfy the five-year residence requirement sooner than is stated on your Pre-Settled Status certificate then you can apply for Settled Status as soon as you satisfy that requirement. If you decide to do so, then you should be prepared to prove you have lived in the UK for five years and provide documentary evidence.

Right to work

All EU nationals have the right to work in the UK. If you make your application, then the Settlement Resolution Centre should issue a Certificate of Application (CAO) prior to making a decision on your application. You can use this CAO as a proof that you submitted your application and it also proves that you have right to work. EU nationals should not be required to provide this until 1 January 2021 onwards.

Gov.UK website [provides a service for employers](#) to check whether their employees have right to work. This link will provide a share code that your employer can use to check whether you have right to work in the UK. Your employer will need the share code and your date of birth. The code is valid for one calendar month and can be shared directly with your employer via the website.

Right to rent

Landlords must check whether a prospective tenant has legal immigration status in the UK. Landlords might face prosecution and possibly a fine if they know or have “reasonable cause to believe” that the property they are letting is occupied by someone who does not have the right to rent in the UK. Landlords and letting agents have been told they should continue to conduct right to rent checks on EU, EEA and Swiss citizens in the same way as now, usually by checking and making a copy of an EEA national's passport or identity card, until 1 January 2021. [This is a link](#) to the government website listing what kind of documents can be accepted.

Bristol Law Centre offer (all services are free):

Weekly Immigration, asylum & EUSS helpline:
Weds 3-5pm for free advice – call 0117 916 7735

Weekly advice line for agencies needing specialist (free) advice on EUSS:
Tuesdays 10am-1pm – call 0117 916 7731

You can also call our main number 0117 924 8662 Mon-Fri 10-4 to see if we can help. We also offer benefits, housing advice, employment and discrimination advice – please read more on our website www.bristollawcentre.org.uk