

The EU Settlement Scheme and your rights

This is to help you understand your rights and entitlements if you have settled status or pre-settled status as an EU national¹ or family member of an EU national under the EU settlement scheme (EUSS).

Residence rights

Settled status:

- ✓ The right to live in the UK permanently - this is known as “indefinite leave to remain”.
- ✓ You can leave the UK without losing your settled status, if you come back within five years (four years for Swiss citizens).
- ✓ Your child(ren) will get settled status if you link your child’s application to yours.
- ✓ Any children you have (born in the UK) after you have been given settled status will be born British and do not need to apply for settled status.
- ✓ You can bring your children, your partner or your dependent parents (or grandparents, great-grandparents etc.) to live with you in the UK under the EUSS scheme.
- ✓ You can apply for British citizenship after a year with settled status or apply now if you are married to (or in civil partnership with) a British citizen. However, you should check carefully or take legal advice, as the citizenship application is very expensive, and the eligibility conditions are different to those for a settled status application. You should also check with your own embassy or consulate in case becoming a British citizen means giving up your original nationality.

Once you have settled status, it is yours permanently as long as you don’t leave the UK for more than the allowed time - you do not need to reapply. You do need to keep your records with the Home Office updated if you change your passport, phone number or email address:

www.the3million.org.uk/after-applying-for-settled-status

Pre-settled status:

- ✓ The right to live in the UK for five years - you will need to re-apply to get settled status before your pre-settled status expires. However, you lose pre-settled status if you leave the UK more than two years.
- ✓ Moreover, if you leave the UK for more than six months in any twelve-month period while you have pre-settled status, then you will not be able to apply for settled status at all. This means that when your pre-settled status expires, you will have to leave the UK unless you can then get a different status under the new immigration rules.
- ✓ Your child(ren) will get pre-settled status if you link your child’s application to yours.
- ✓ You have the same rights to have your family join you in the UK as someone with settled status.

¹ We use EU citizens to include EU, EEA and Swiss citizens. Countries in the EU/EEA are listed here: <https://www.gov.uk/eu-eea>

Appeal rights

If you apply for a status under the EUSS scheme and are rejected, or get pre-settled status when you expected to get settled status, you have the right to appeal the decision - either through the Home Office administrative review procedure or an immigration tribunal². This means that if you disagree with the decision made by the Home Office you can have an independent judge review it.

Right to equal treatment in daily life

With **settled status** you will have the same rights to live, work, receive healthcare and welfare benefits as a UK citizen - your settled status is evidence that you have a right to reside in the UK when applying for welfare benefits. You will also have the same rights to student finance as a British citizen (but check the details for England & Wales, Scotland and Northern Ireland - the rules are complex).

With **pre-settled status** you will have the same rights to live, work, and healthcare in the UK as you do now but to be able to access the majority of your equal treatment rights you will have to be doing something extra. Most people who are working (or are family members of someone who is) will be able to access these rights. However, for those who are not, they will be unable to access welfare benefits and other support from the government. For example, **pre-settled status does not count as “right to reside” for the purposes of welfare benefits.** (You may be able to prove an alternative “right to reside” under the EU rules).

This is a complex area of law and we recommend anyone who struggles to access services in the UK seek advice and let the3million know. We are campaigning to change this so that all EU citizens with status can access their rights.

Remember that there is a grace period where the UK has agreed to protect EU citizens from the UK immigration system’s “hostile environment”. Until the deadline for applying to the EUSS scheme on 30 June 2021, **employers and landlords must still treat EU passports and identity cards as valid proof of right to work and right to rent** and should not be asking you for further proof of your immigration status. For non-EU family members, employers and landlords must accept the same documents as now.

What rights are not guaranteed?

Some rights that EU citizens had before Brexit will disappear after freedom of movement ends - such as the right to bring future partners to the UK. In some areas, the UK is giving EU citizens - particularly those with pre-settled status - less than what was agreed to. Some pre-settled status holders are finding they cannot access social security when they need to: t3m.org.uk/PreSettledStatus_UniversalCredit

The right to vote and stand as a candidate in local elections is not guaranteed for citizens from many of the EU-27 countries: www.the3million.org.uk/let-us-vote-campaign.

² <https://www.freemovement.org.uk/eu-settlement-scheme-appeal-rights-introduced/>