

## **Follow-up from the3million's webinar on 23 June 2020: additional answers to your questions & further resources**

On 23 June 2020, the3million organised the first online webinar answering your questions on citizens' rights. This marked the launch of our campaign to say #ByeByeCSI for citizenship applications (you can read more about it here: <https://www.the3million.org.uk/byebyecsi>).

We received over 100 questions from EU citizens in advance of the webinar, and many more during the webinar. Although many were answered during the event (you can see the recording here: <https://www.youtube.com/watch?v=jmHtBvtt0mA>), we did not have time to cover everything.

Please note that the3million is not an organisation providing legal advice (read more here: <https://www.the3million.org.uk/legal-advice>). We provide information and campaign on EU citizens' rights issues and do not do casework. There are several charities who specialise in immigration advice on the EU Settlement Scheme who give advice free of charge, such as Settled (<https://settled.org.uk/>) and Here for Good (<https://www.hereforgoodlaw.org/>). If you need advice on welfare, the AIRE centre is a good place to start looking for information and support: <https://www.airecentre.org/>

This document offers further information relating to the main themes of your questions. It also points to useful resources you can access. Many questions were similar, so we grouped them under the key topics and rephrased them to encompass more than one question. This information is valid on 1 July 2020. If you read this document much later, please do check if there are any updates.

### **Applying for British citizenship & Comprehensive Sickness Insurance (CSI)**

#### **1. What is the CSI issue?**

CSI stands for Comprehensive Sickness Insurance and it is a requirement for certain people to have it to be considered lawfully resident in the UK. EU citizens have been living in the UK under freedom of movement rules. These rules have allowed people of EU countries to live and work around the European Union. To be able to live in another EU country, after an initial period of 3 months, EU citizens need to be a 'qualified person' under these freedom of movement rules to reside in the UK lawfully. The main categories are worker, self-employed, jobseeker, student or self-sufficient. The latter two categories (student and self-sufficient) need to be financially self-sufficient and have this 'CSI' to exercise to be considered lawfully resident. .

#### **2. Why does being 'lawfully resident' matter?**

Those wishing to become British citizens by naturalisation will need to show that they were lawfully resident for a period of time in the UK. If you were not lawfully resident, your application to become a British citizen might be unsuccessful. If you have concerns that you might not have been lawfully resident in the UK for the period you want to rely on in your naturalisation application, you should contact an expert, we've got some helpful tips later on in this document.

### **3. What does it mean to be self-sufficient?**

You are self-sufficient if you are not employed or self-employed and you rely on your own savings or others' income to live in the UK. For example, an EU student whose parents send them monthly payments for their living costs, but who does not work, is a student who is self-sufficient. An EU citizen who is relying on a partner's income and staying at home with children is self-sufficient. Self-sufficient people need CSI to exercise treaty rights.

### **4. Do voluntary National Insurance payments count as CSI?**

No. You need CSI for the period you were a student or self-sufficient and you cannot make payments for past periods. However, if for instance, you were a student and also worked during your studies, you may be able to treat this as being a worker rather than a student.

You can qualify as a 'worker' if the Home Office considers your work 'genuine and effective'. This is a complex area of law and the nature of the work is assessed on a case by case basis. To give you a broad picture, a student working 20 hours a week at Sainsbury's throughout her studies could apply as a worker, whereas the work of a student who only worked a couple of hours a month in the Students' Union bar would likely not be considered to have been doing 'genuine and effective' work.

### **5. Is CSI required by all EU citizens applying for British Citizenship or self-sufficient and students only?**

You do not need CSI if you can evidence you were a worker or self-employed for your qualifying period. However, even if the citizenship application asks you for 5 years of evidence in the first instance, there are cases where caseworkers check further in your history in the UK. The Home Office can also apply discretion on your case, for instance if you had some gaps in your record. If you are in doubt about your status in the past, it is a good idea to seek immigration advice on your particular application.

### **6. What is the qualifying period for residence for citizenship applications?**

It's 5 years unless you are married or in a civil partnership with a British citizen in which case it is 3 years. If you are not married or in a civil partnership with a British citizen, you also need to wait 12 months from the date of your settled status decision, if you apply using settled status, rather than an EEA Permanent Residency (PR) card. For example, Dana is a Romanian citizen married to a Greek citizen. Dana has been in the UK from 2010 and received settled status on 2 April 2019. Dana will have to wait until 2 April 2020 before being able to apply for citizenship. If she applies in April 2020, the citizenship application will ask to evidence the last 5 years, so April 2015-April 2020. However, the Home Office may check whether Dana was lawfully resident before 2015 as well.

### **7. What evidence can I use to prove my CSI?**

Some EU citizens may have had private medical insurance during the period they were self-sufficient or a student. There are also other ways to prove CSI. This depends on your country of citizenship and your arrangements. In some EU countries, students abroad were covered by specific national-level policies, whereas some students can still count on their parents' insurance. An EHIC card issued by an EEA member state other than the UK can also be used. A useful resource about Forms E104 and S041 can be found here: <https://blogs.kent.ac.uk/eu-rights-clinic/csi-form-e-014-s041/>. This is a very complex area of law and those wishing to rely on it should consider getting legal advice.

### **8. My children are born in the UK, are they British?**

There are three main categories of British citizens: those who are automatically British by birth, those who can apply for registration as a British citizen and those who can apply for naturalisation as a British citizen. Each of these categories has many sub-categories. For children specifically, we recommend reading the information on the PRCBC website (<https://prcbc.org/our-work/>), in particular this useful infographic: <https://prcbc.files.wordpress.com/2019/03/children-and-their-rights-to-british-citizenship-march-2019.pdf>.

### **9. Do I really need to become British? What are the benefits of British citizenship?**

Settled status is Indefinite Leave to Remain (ILR) under the EU Settlement Scheme, which allows you to live indefinitely in the UK without immigration restrictions. However, you lose your settled status if you spend more than 5 continuous years outside the UK. There are no such restrictions if you become British. British citizenship also gives you the right to apply for a British passport, which can then be used as a physical proof of rights - such as the right to work or right to rent. In addition, British citizenship gives you the right to vote in general elections and referendums. Applying for citizenship is a personal choice that involves you balancing the costs and benefits of this process.

### **10. Can I still apply and keep my EU passport / nationality?**

It depends which is your EU country of citizenship. Some countries, like The Netherlands, Austria, Spain, Estonia, Lithuania, Latvia, Slovakia, Slovenia and Germany, have restrictions on dual citizenship. Others, like Romania, allow dual citizenship with the UK for all their citizens. These rules are also currently debated in some countries and they may change. Before applying for British citizenship, do check with your embassy or consulate about your EU country's rules on this issue.

### **11. Is it better to apply for citizenship with PR or settled status?**

Both PR and settled status are routes to citizenship. The key difference is that with settled status, you need to wait 12 months from the decision date unless you are married or in a civil partnership with a British citizen, regardless of how long you have been in the UK. PR can be backdated, unlike settled status. There is also an important legal difference in that settled status only proves you are lawfully resident from the date settled status is granted. Therefore if settled status is used as a route to citizenship, the Home Office will still look at periods before the date your settled status was granted to check that your residence was lawful, and this will include checking if you had CSI during any periods where you were self-sufficient or a student.

If you are unsure about fulfilling the CSI requirement if you were a student or self-sufficient person in the past, it might be a good idea to mitigate the risk by trying to apply for a document confirming you were lawfully resident for your time in the UK to qualify for permanent residence via an application for a Permanent Resident ('PR') document first, which costs £65. Unlike settled status, to have permanent residence in the UK, you will need to show you had CSI if you were a student or self-sufficient. This way you will only lose £65 and not the £1330 application fee should you apply to naturalise (in addition to costs such as the Life in the UK test, biometrics appointment and the English Language Test). You can still apply for a PR document until 31 December 2020. Please keep in mind the time frame it will take for a decision on your PR application and how this may impact your citizenship application, since this route may be closed in a few months' time. If unsure, we recommend you seek legal advice.

## **12. How do I find a good immigration advisor or lawyer for my citizenship application?**

There are many organisations and individuals providing advice on citizenship. In the UK, all immigration advice is regulated, so please make sure you go to someone who is qualified to give you advice on this area of law. On the ILPA website, you can find a directory of members to find an immigration advisor near your area: <https://ilpa.org.uk>.

## **Proving and futureproofing your status under the EU Settlement Scheme**

### **1. Does pre-settled status automatically convert to settled status?**

No. And it is very important you renew your status before it expires. Pre-settled status is limited leave to remain under the EU Settlement Scheme. It allows you to continue living and working in the UK for 5 years, after which it expires. When you receive your decision email from the Home Office, the PDF attached to the email will explicitly mention which status you have. If you have pre-settled status, it will indicate the day your status expires. You absolutely must re-apply before your status expires. If you have 5 years before it expires, you can apply for settled status before. For example, if you have been in the UK since 2017 and you received pre-settled status in 2019, if you live continuously in the UK until 2022 you will be able to apply for settled status before your pre-settled status expires in 2024.

### **2. Do you need Comprehensive Sickness Insurance (CSI) for settled status?**

No. The CSI requirement was scrapped for EU Settlement Scheme applications. To apply for pre-settled or settled status, you do not need to evidence that you were in one of the 'qualified person' categories (worker, self-employed, jobseeker, self-sufficient with CSI or student with CSI). The EU Settlement Scheme checks for your residence in the UK. To be eligible for settled status, you normally need to evidence you have been living in the UK for at least 6 months out of every 12 months for a continuous period of 5 years.

### **3. Can you continue to work in the UK indefinitely with settled status without applying for citizenship?**

Yes. Settled status is a form of Indefinite Leave to Remain (ILR). The difference is what happens if you leave the UK for an extended period. If you have settled status, but later decide to work in another country, you will lose your settled status if you are abroad for 5 years without returning to the UK.

### **4. What are the consequences of not applying for settled or pre-settled status?**

The deadline to apply to the EU Settlement Scheme is 30 June 2021, but you need to prove you lived in the UK before 31 December 2020. If you do not apply by the deadline, your residence in the UK will become unlawful. You will face the hostile environment policies and find it increasingly more difficult or impossible to rent a property, access work, welfare or other services.

### **5. How secure is settled status?**

We heard many EU citizens applying for British citizenship for the reason they do not feel secure with settled status, or because they do not receive physical proof of their settled status. There can be changes to the legislation underpinning the EU Settlement Scheme, although these should not remove rights guaranteed by the Withdrawal Agreement. Settled status can also be lost if you are abroad for more than 5 years, for example.

## **6. What work is left to lobby on the EU Settlement Scheme?**

Currently, the3million is focussing on campaigning for a legal safety bridge between the end of freedom of movement and the UK's future immigration system. We are seeking clarification about what will happen to the EU citizens whom the Home Office will fail to reach by the deadline. We are campaigning to get physical proof of status. We are also seeking to keep our existing political rights to vote and stand as candidate in local elections. You can read more about our campaign goals here: <https://www.the3million.org.uk/goals>

## **7. What happens when my passport expires or I change my details?**

You will need to update your passport or identity card details to make sure you can use your status. Once you're logged onto the system to view your status (<https://www.gov.uk/view-prove-immigration-status>), you will be able to click 'update your details' as well as 'prove your status' to someone. You can also go directly to <https://www.gov.uk/update-eu-settlement-scheme-details> to update your details.

You must update your details when your ID details change, but also if your name or other details, such as email and phone number change. There are similar steps to take online like when you check your status. You go to the website, click 'start now', input the details of the ID you used when you did your application, your date of birth, after which the system will send a verification code to your phone or email. It is therefore quite important that you do not change your phone number and email address at the same time!

After the code is verified, you will be asked which details you need to update. You can update your mobile phone number, email address, name, identity document and address in the UK. You click on which detail you want to update and you can follow the steps to fill in the online form with the new details. To update your ID, keep in mind you may have to send your original new ID to the Home Office for verification currently - the Home Office has not yet implemented an online-only process for this as of 1 July 2020.

## **8. Is it possible to get physical proof of status?**

Not at the moment, this is why the3million is campaigning for physical proof of settled and pre-settled status. Only non-EEA family members receive physical proof of status under the EU Settlement Scheme. EU citizens do not. The status is digital, which we argue can lead to more discrimination in the future. You can read more about the3million's arguments for physical proof of status here: <https://www.the3million.org.uk/physical-proof>

## **Other rights under the Withdrawal Agreement**

### **1. What is the situation on pensioners' rights in the UK? Do you lose access to your pension because of absences?**

Part Two of the Withdrawal Agreement is all about citizens' rights, and it is divided into different 'Titles'. Title II covers residence rights and conditions that the EU Settlement Scheme must comply with. Title III is about social security coordination, and this includes pension rights, healthcare and social security rights. Title III covers a wider range of people than Title II, as it includes citizens who are in a situation involving both the UK *and* one or more EU member states, whether now or in the past. Even if you have settled status now, and then leave the UK to go and live in an EU country for more than five years, you will still have UK pension rights protected. This is a complex area - the [European Commission Guidance Note](#) provides examples of how people are covered.

## **2. What happens with my family reunification rights post-Brexit?**

If you have settled or pre-settled status, you will be able to be joined by certain family members in the future. This includes your spouse or registered partner (as long as they were already your spouse or registered partner at the end of the transition period, 31 Dec 2020), your or your spouse/partner's direct descendants who are under the age of 21 or dependants, and your or your spouse/partner's direct relatives in the ascending line (parents, grandparents etc). When they join you in the UK, they will need to apply to the EU Settlement Scheme within three months of arrival.

## **3. Are voting rights protected as part of the Withdrawal Agreement?**

No. Our local election voting rights are currently being negotiated bilaterally. The only agreements the UK has reached so far are with Portugal, Luxembourg, Spain and Poland. At the3million we are campaigning to preserve local election voting and candidacy rights. You can read more about our campaign here:

<https://www.the3million.org.uk/let-us-vote-campaign>

I hope you found this document useful. At the3million we are a small team of staff and dedicated volunteers and we do not have capacity to address every single question. We do hope this document encompasses all main concerns raised in your questions and provides a useful reference point and further resources for you to make informed decisions on settled status and citizenship.

While we did our best to give the most up to date information, please make sure to subscribe to the3million's newsletter (<https://www.the3million.org.uk/subscribe>) and join our Facebook forum (<https://www.facebook.com/groups/Forum4EUcitizens>) to keep in touch with any updates.