

European Union (Withdrawal Agreement) Bill

Briefing on pre-settled status under the EU Settlement Scheme

What is the difference between pre-settled and settled status?

Settled status:

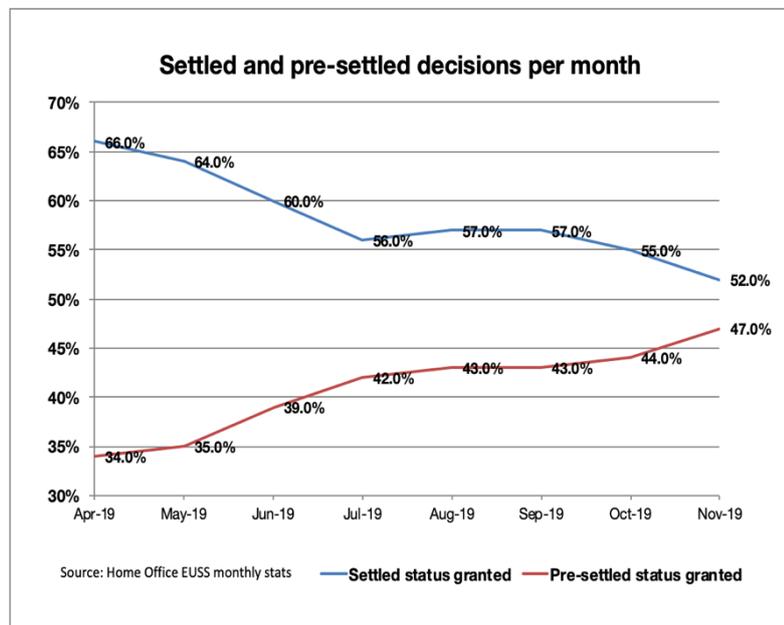
- is intended for citizens who have lived in the UK for 5 years or more
- is based on the UK's immigration status **Indefinite Leave to Remain**.

Pre-settled status:

- is intended for citizens who have lived in the UK for less than 5 years
- is based on the UK's immigration status **Limited Leave to Remain**
- **expires** 5 years after the date it was granted – those who do not apply for new status will have no legal basis to be in the UK
- is lost after a 2 year absence from the UK, but the **route to settled status is irrevocably lost** after a 6-month absence

Citizens must apply for settled status before their pre-settled status expires.

Are people being given the correct status?



No-one knows exactly how many EU citizens and their families live in the UK, and when they arrived.

Therefore it is difficult to know how many people should be entitled to settled, and pre-settled, status.

However, estimates show that around 69% of EU citizens have been in the UK for more than 5 years – so **we expect around 31% of EU citizens to correctly get pre-settled status.**

In total now, since the start of the scheme, **41% of people have been given pre-settled** rather than settled status.

Together with the reported media stories of people who were given pre-settled status when they had been living in the UK for far longer than 5 years, we feel these statistics give rise to great concern.

In addition, as of the latest published statistics, more than 360,000 applications, representing almost 1 in 7 of all applications, are still unprocessed. **This means only 51% of the 2.6 million applications to date have resulted in a grant of settled status.**

Why is it a problem being granted the wrong status?

We are concerned about EU citizens (and their non-EU family members) who are eligible to stay in the UK, but who **ultimately become criminalised by the EU Settlement Scheme (EUSS) in its current form.**

All holders of pre-settled status face an individual hard deadline when their status expires. If they do not apply for settled status before that expiry date, they lose all their rights in the UK and are locked out of the EUSS altogether. This creates a ticking time bomb of **over a million individual cliff-edges.**

Why are we proposing a declaratory system to address these problems?

It is important to note that a declaratory system (see our separate briefing) will not in itself remove the fact that people may struggle to evidence their correct status. However, **a declaratory system removes the disastrous individual cliff-edges that are built into the very design of the current EUSS.**

After the deadline of June 2021, it will quickly become apparent that anyone who does not have a status will need one – to be able to continue to work, rent and access healthcare and benefits. With the current system, it will be too late for these people – they will have lost their chance to apply, and lost their legal basis to live in the UK – even if this has been their home for years.

[A study](#) looking at the take-up rates of similar schemes around the world shows that no scheme has **ever** managed to reach 100% of its target audience. The most successful scheme was the UK Digital TV switchover, where 97% had signed up on the eve of the switchover, and the remaining 3% signed up over the following days – once they realised they could no longer watch TV.

The current system, if applied to the Digital TV Switchover, is equivalent to criminalising those who missed the deadline, and stopping them from ever watching TV again.

A much fairer system – a declaratory one – would simply allow these citizens to still register after the deadline, once they realise they need proof of their status.

In addition to declaratory registration, the3million proposes to define the rights of pre-settled status (and settled status) in primary legislation, so EU citizens are not deprived of their current rights via secondary legislation.