

## Pre-Settled Status under the EU Settlement Scheme and access to Universal Credit

### Current situation

Many citizens who have been granted pre-settled status under the EU Settlement Scheme, and who have now [lost their jobs through the Coronavirus pandemic](#)<sup>1</sup>, are struggling to access Universal Credit.

To be eligible for Universal Credit, people need to pass a 'Habitual Residence' test. This involves showing that the UK is their main home, and that they have a 'right to reside'.

Several immigration statuses satisfy the 'right to reside' requirement, including **settled status** given under the EU Settlement Scheme, **indefinite leave to remain (ILR)**, and **limited leave to remain (LLR)** unless the LLR specifies 'No Recourse to Public Funds'.

Prior to July 2019, those with pre-settled status granted under the EU Settlement Scheme were able to satisfy the 'right to reside' requirement. However the UK government [introduced Regulations](#)<sup>2</sup> which explicitly reversed that.

Instead EU citizens with pre-settled status can try to demonstrate an alternative 'right to reside' by reference to EU free movement rights - for example showing they are a worker or are self-employed. This has created many problems for EU citizens and their families up and down the United Kingdom.

### Why this is wrong

Pre-settled status should satisfy the 'right to reside' requirement. Pre-settled status should be sufficient to demonstrate a person's right to live in the UK and access vital services such as Universal Credit on the same basis and eligibility as a British citizen.

There is a **fundamental moral argument**. The UK Government has publicly and repeatedly told EU citizens 'you are our friends, our neighbours and our colleagues and we want you to stay'. However when that same Government asks those same citizens to stay home to protect the NHS and save lives, it denies many the help they require to stave off destitution.

Many EU citizens have made the UK their home, in many cases they currently could not even return to their country of origin even if they wanted to.



<sup>1</sup> <https://www.theguardian.com/society/2020/apr/27/london-coronavirus-sacked-hospitality-workers-sleeping-rough>

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2013/376/regulation/9>

Furthermore, we understand that there are **legal arguments** why those with pre-settled status should be able to access help.

**Anyone with either pre-settled or settled status under the EU Settlement Scheme falls within the scope of the UK-EU Withdrawal Agreement and the rights therein.** A [reply from the EU Commission](#)<sup>3</sup> to a [letter from the3million](#)<sup>4</sup> confirms this.

### **What has the3million done about this?**

On the 19th April, we [wrote to the Home Secretary and the Work and Pensions Secretary](#)<sup>5</sup>, asking that this wrong be remedied urgently. We received a response to say that the Government's position will not change and those with pre-settled status cannot rely on that status to meet the right to reside test.

We copied our letter to Michael Gove and Maroš Šefčovič, as chairs of the EU-UK Joint Committee overseeing the implementation of the Withdrawal Agreement. We have been informed that the matter will be discussed at the first meeting of the specialised subcommittee on Citizens' Rights which is to be held on 20 May.

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<sup>3</sup> [http://www.t3m.org.uk/EC\\_reply\\_t3m\\_WAPersonalScope](http://www.t3m.org.uk/EC_reply_t3m_WAPersonalScope)

<sup>4</sup> [http://www.t3m.org.uk/t3m\\_letter\\_EC\\_WAPersonalScope](http://www.t3m.org.uk/t3m_letter_EC_WAPersonalScope)

<sup>5</sup> [http://www.t3m.org.uk/t3m\\_letter\\_HO\\_WA\\_PreSettledStatus](http://www.t3m.org.uk/t3m_letter_HO_WA_PreSettledStatus)