



EU Citizens in the UK and Settled Status: Frequently Asked Questions

A general note to accompany the information set-out below: The information in this Q&A document is up to date at the time of writing on 06 September 2018. The information set out is based on the draft Withdrawal Agreement between the EU and the UK published on 19 March 2018, as well as other publicly available information. The draft Withdrawal Agreement has not been approved yet and will not pass into law unless it is agreed by both parties. In the event that there is no agreement (a 'no-deal scenario'), between the parties, then the legal obligations of the UK towards EU citizens will not be set out in the same way as they are in the draft Withdrawal Agreement. It is also possible that some aspects of the Settled Status scheme could change. As such, it is important to follow developments in this area closely. We recommend you sign up to the Home Office email updates at this address as it will keep you informed about the operation of the Settled Status scheme:

<https://gov.smartwebportal.co.uk/homeoffice/public/webform.asp?id=67&id2=627DF7>

Q1: To secure 'settled status', does the 5 year continuous residency requirement mean that an individual has to be in work for that entire duration?

No, the Immigration Rules that came into force on 28 August 2018 set out that to qualify for settled status (indefinite leave to remain), an applicant must complete a 5 year "continuous qualifying period" of residence in the UK. The definition of a continuous qualifying period does not include any requirement to have been in employment for the 5 years. The requirements are to have been resident in the UK - this means for each of the 5 years, 6 months or more (in any 12 month period) must have been spent living in the UK. There is an allowance of one period in the 5 years of more than 6 months but less than 12 months outside of the UK whereby this absence is for an important reason (such as

pregnancy, childbirth, serious illness, study, vocational training or an overseas posting). Any period where a person is absent from the UK because of compulsory military service is not considered to break the continuous qualifying period. A prison sentence in most situations breaks the continuous qualifying period.

Q2: I have been receiving housing benefit. Will this change once the settled status system is up and running?

A EU citizen or family member who is already in receipt of housing benefit is unlikely to be affected by the change to settled status providing they obtain their status before the cut off date to apply which is currently set to be 30 June 2021.

Q3: What evidence/documentation will individuals with settled status be expected to provide at UK borders?

Settled status or pre-settled status for EU citizens will be a “digital status” and therefore there will be no physical document issued once an applicant is granted pre-settled status or settled status. This means that the immigration officers at the border will use the passport or national ID card (for as long as these are valid to be used for travel to the UK), to confirm that the person has pre-settled status or settled status and thus right to reside in the UK in this capacity. The Home Office has provided this information about how the digital status will operate.

<https://www.gov.uk/government/publications/eu-settlement-scheme-view-and-prove-your-rights-in-the-uk/view-and-prove-your-rights-in-the-uk>

Non-EU citizen family members will still be issued (as they are now), with a physical biometric residence permit, which means that they must travel with this residence permit and their national passport in order to be readmitted to the UK.

Q4: I have a full state pension in the UK. If I secure settled status, then move to an EU country after Brexit, will I still have a right to this?

Under the terms of the draft Withdrawal Agreement between the EU and the UK, pension entitlements built up in the member states will still be exportable if the person holding settled status decides to relocate to another EU country after the end of the transitional period (which ends on 31 December 2020). If there is no agreement between the EU and

the UK, it is not clear what the position will be as the government has not released any official policy.

Q5: The applications for permanent residence are still open. What's the difference between permanent residency and settled status? If I would have to wait a year for citizenship between the securing of permanent residency AND settled status, would it be advisable to apply for permanent residency before settled status applications open?

The reason that applications for EU permanent residence are still open is because EU law has not ceased to apply in the UK and will not do so - depending on whether there is an agreement - until Brexit day or the end of the transition period (which ends on 31 December 2020 if there is an agreement). There may be a good reason to apply for EU permanent residence for some people but the important point to note is that someone who holds an EU permanent residence document must either apply for settled status or to naturalise as a British citizen in order to retain the legal right to live in the UK after the country leaves the EU. Whether someone holding an EU permanent residence document would rather apply for settled status or to naturalise as a British citizen will depend on a range of factors (such as the cost of applying, whether they can meet the eligibility criteria, personal feelings and so on).

A person who is granted settled status will be granted from the date they receive the decision from the Home Office. This means that, unless they are married to a British citizen, they will have to wait for 12 months from the date of grant before they are eligible to apply to be naturalised as a British citizen (please note: there are other requirements that need to be met to be naturalised).

The way that the EU permanent residence system operates allows for an applicant to specify which 5 year qualifying period they wish to rely on. This means, for example, that a person who has lived in the UK since 2005 to the present date could choose a 5 year qualifying period between 2010 and 2015 if they wish. The advantage of this in terms of applying to be naturalised as a British citizen is that if a person acquired their EU permanent residence in 2015, they would not have to wait another 12 months from the date that they were issued with the EU permanent residence document before becoming eligible to apply for naturalisation (please note: persons married to British citizens can apply for naturalisation as soon as they receive their EU permanent residence document, regardless of when their 5 year qualifying period ended).

Q6: If a non-UK EU national decided to move to the UK in a month's time, with no prior UK residency, would they still be able to secure settled status, provided the application meets the other criteria?

Yes, providing the EU citizen begins their residence in the UK before the end of the transition period (which ends on 31 December 2020 if there is an agreement), then they will be able to build up the 5 years continuous qualifying period needed to apply for settled status. They will need to apply for pre-settled status once they move to the UK, as this shows that they have begun their residency in the UK before the end of the transition period. After the 5 years is completed, they will make a second application for settled status (the Home Office has said that there will not be a second charge of £65 for an adult, or £32.50 for a child, in situations where a person needs to apply for pre-settled status and later settled status).

Q7: If an individual is not self-sufficient – i.e. they have been chronically unwell / disabled and are unable to work - are they still eligible for settled status?

Yes, they would still be eligible for pre-settled status or settled status, so long as they meet the continuous qualifying period requirement as set out in question 1 above. The fact that a person has been unable to work or in receipt of disability benefits will not prevent them from obtaining settled status.