

# Frequently Asked Questions for EEA Staff and Their Family Members

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Many European Economic Area (EEA) nationals in the UK are understandably concerned or confused about what Brexit may mean for them. Various documents have been issued over the last year, including the UK government's proposals on [Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU](#), and the [Joint Report](#) published by the EU and the UK government on progress during phase 1 of the Brexit negotiations in December 2017. On 28 February 2018, the EU Commission published its own draft of the [Withdrawal Agreement](#) for negotiation, and the UK government has since updated its [online guidance](#) on the position of EU citizens, including those who arrive in the UK during a post-Brexit implementation period.

The following FAQs are intended to answer your most immediate questions on the effect of the UK's exit from the EU and we will continue to update these as and when the situation develops.

## Has Anything Been Finalised Yet?

Nothing is yet set in stone. The UK government's proposals and online guidance set out its anticipated arrangements for EU citizens, and the December Joint Report contains agreements in principle with the EU on certain points. However, the EU's recent draft Withdrawal Agreement also includes various (more favourable) conditions regarding the treatment of EU citizens and their family members in exchange for a transition period to 31 December 2020. The UK government's proposals are, therefore, still subject to negotiation with the EU.

## Most of the Available Information Refers Specifically to EU Citizens, But What About Those of Us in the UK From Other EEA (Non-EU) Member States and Switzerland?

The UK government has said that it is in discussions with Iceland, Liechtenstein, Norway and Switzerland about securing the status of their citizens who are resident in the UK on a reciprocal basis. Throughout this note, we will use "EU citizens" when referring to the UK government's proposals and the December Joint Report, but "EEA nationals" when discussing the current law and practice relating to the wider group of EU, EEA and Swiss nationals.

## What Are the UK Government's Key Proposals for EU Citizens in the UK So Far?

- EU citizens and their families who arrive in the UK before 29 March 2019 ("Exit Date") and who have been continuously and lawfully resident in the UK for five years will be allowed to stay indefinitely by obtaining "settled status".
- EU citizens and their families who arrive before Exit Date but have not been here for five years will be able to apply for temporary permission to stay until they have been here for five years, after which they will be able to apply for settled status.

- EU citizens with settled status or temporary permission to stay in the UK will have the same access as they currently enjoy to healthcare, pensions and other benefits in the UK.
- There will be a grace period of at least two years after Exit Date to give EU citizens and their families sufficient time to make their applications. EU citizens who do not receive a decision before the end of this period can continue living in the UK at least until a decision is made. The UK government has also said it will take a "proportionate" approach for those who do not apply before the end of the grace period.
- EU citizens in the UK before Exit Date can be joined by certain close family members after Exit Date for the life time of that EU citizen, providing that (other than in the case of children born or adopted after Exit Date) they were related to the EU citizen on Exit Date and continue to be related at the point they wish to join the EU citizen in the UK.
- The UK government also announced on 28 February 2018 that there will be an 'implementation period' of around 2 years from Exit Date to "prepare and implement future arrangements with the EU". EU citizens and their family members who arrive in the UK during the implementation period will be able to live, work and study in the UK but will need to register with the Home Office if they intend to stay here for longer than three months. Once they have been continuously and lawfully living in the UK for five years, they will be able to apply for indefinite leave to remain.

## What Is the EU's Current Response to the UK Government's Proposals?

The EU's draft [Withdrawal Agreement](#) develops some of the points agreed in the December Joint Report in more detail. Depending on the outcome of negotiations, therefore, some of the UK government's proposals could change. For example, the EU's position is that:

- EU citizens arriving in the UK during an implementation period should have the same rights as those who arrive before Exit Date rather than being subject to any post-Brexit immigration requirements. In practice, this could see EU free movement continuing in its current form for another couple of years.
- Those who have resided lawfully in the UK under EU law for a continuous period of five years should have 'the right of permanent residence'. If the EU wins this particular point, EU citizens who have obtained a permanent residence document before Exit Date should not need to exchange it for a new settled status document.
- The right of family members to join EU citizens in the UK at any time after Exit Date should apply to spouses, civil partners and direct relatives in the ascending line of either spouse or partner who marries, registers a partnership or becomes dependent respectively, so long as the family member can demonstrate their relationship or dependency at the time they apply to come to the UK.

## What Is the Difference Between Permanent Residence, Settled Status and Indefinite Leave to Remain?

The three concepts are very similar in that, in each case, the holder is not subject to immigration control and can reside and work in the UK without restriction, has access to public funds and services and the right to apply for British citizenship in due course. However, under current EU law, *permanent residence* is acquired automatically by EU citizens who have spent five lawful, continuous years in the UK, regardless of whether the holder applies for a document to confirm that status. By contrast, *settled status* will be granted subject to an application under UK immigration law specifically for EU citizens (and their eligible family members) lawfully in the UK before Exit Date. *Indefinite leave to remain* is also granted subject to an application under UK immigration law – it currently applies to non-EEA nationals seeking to settle in the UK after five years' continuous residence in the UK in specific immigration categories but with more onerous criteria (largely relating to income). Importantly, an indefinite leave to remain application currently costs at least £2,297 per person, whereas a permanent residence document application costs £65 per person (a settled status application is likely to cost in the region of £72 per person).

## What Will the Qualifying Criteria Be for Settled Status?

The UK government proposes that the qualifying criteria should be the same as, or more generous than, those applied to EEA nationals applying for a permanent residence document after five continuous lawful years' residence in a qualifying status (i.e. as a worker, a self-employed or self-sufficient person or student or a co-habiting family member thereof).

It has also said it will remove the requirement that EU citizens who have been studying or economically self-sufficient in the UK during any part of their five years in the UK must be able to show that they had comprehensive sickness insurance during those periods as a condition of their ability to obtain temporary permission or settled status.

## What Will the Process Be to Obtain Temporary Permission to Stay or Settled Status?

The UK government has said that the new process will go live at the end of 2018. We do not yet know exactly what this will involve but assurances have been given that it will be "streamlined, quick and user-friendly". Qualifying EU citizens in the UK should only need to provide an identity document and a recent photo and declare any criminal convictions.

## What Will It Cost to Apply for Temporary Permission to Stay or Settled Status?

The UK government has agreed that applications should be free of charge or charged at a rate "not exceeding that imposed on nationals for issuing similar documents". We, therefore, expect the cost to be around £72, as currently charged for British passport applications.

## If I Have Already Acquired Permanent Residence, Will This Mean That I Am Automatically Granted Settled Status?

The UK government's proposals state that permanent residence status will no longer be valid after the UK leaves the EU (even if you have obtained a document to confirm that status). You would, therefore, still need to apply for a settled status document. The UK government has said, however, that those who already have a document confirming their permanent residence at Exit Date can convert this into a settled status document free of charge, subject only to an identity and criminality check and confirmation of their ongoing residence in the UK. By contrast, the EU's position is currently that EU citizens who have obtained a permanent residence document before Exit Date should not have to exchange this for a new settled status document (see "What is the EU's Current Response to the UK Government's Proposals?" on the preceding page).

## Can I Still Apply for a Permanent Residence Document Now?

Yes. You should not be put off by Home Office communications discouraging you from applying if you are eligible. Many EEA nationals will find it useful and reassuring to have a formal record of their continuous residence in the UK in a qualifying status, given that the law in this respect has not yet changed and we do not know if, how or when it will do so. As stated above, having a document confirming permanent residence is also likely to facilitate the process of obtaining settled status.

The current [online application process for a permanent residence document](#) can be used by most applicants, is more straightforward than the previous paper form and allows for an immediate passport return service. If you have not spent more than six months outside the UK in any 12-month period of the relevant five-year period, you are no longer required to list all of your absences from the UK.

Having a document confirming permanent residence is also a prerequisite if you intend to apply to naturalise as a British citizen.

## Do I Need to Do Anything Now?

No. You do not need to do anything now unless you want to apply for a document confirming permanent residence.

## How Will I Know If I Am Eligible for a Permanent Residence Document?

If you are an EEA national who has been in the UK for five continuous years in a qualifying status (i.e. as a student, worker or self-sufficient or self-employed person or a co-habiting family member thereof), then you will have acquired permanent residence and will be eligible to apply for a permanent residence document. Under the current rules, any time spent in the UK as a self-sufficient person or as a student also requires you to have held comprehensive sickness insurance during that period (which, for practical purposes, generally means private medical insurance or a European Health Insurance Card).

If this applies to you, but you did not hold comprehensive sickness insurance during the relevant period, then, given that the UK government intends to remove this requirement, you may want to seek further advice before applying and you may be better off waiting for the new settled status process to be introduced rather than have your application for permanent residence formally rejected.

## What Does “Continuous” Mean for the Purpose of Qualifying for a Permanent Residence Document or Settled Status?

It means, with limited exceptions, being in the UK in a qualifying status (i.e. as a worker, a self-employed or self-sufficient person or student or a co-habiting family member thereof) without a break of six months or more in any 12-month period. Absences from the UK or gaps in work of up to six months in any 12-month period (or up to 12 months for an important reason, e.g. childbirth) will not usually prevent you from acquiring permanent residence. Further advice should be sought where your work history or residence in the UK has material gaps.

## Can My Spouse/Partner and Children Apply for a Permanent Residence Document at the Same Time as I Do Before Exit Date?

They may qualify for a permanent residence document in their own right (as set out above) but will also have acquired permanent residence if they have been living in the UK with you as your family members for a continuous period of five years, even if they have not been here as a worker, a self-employed or self-sufficient person or student.

In that case, they can apply for a permanent residence document at the same time as you. This will also be the case for your family members from a country outside the EEA, but they will have needed proof of their status in the form of a family permit or residence card from the beginning of their time in the UK. If your family members have not been living with you in the UK for five years when you apply for a permanent residence document, they may still apply at the same time as you, but will be issued with a registration certificate (EEA nationals) or residence card (non-EEA nationals) instead of a permanent residence document.

## How Long Does It Take to Obtain a Permanent Residence Document?

Although the Home Office is strictly required to process EEA applications within six months, in light of the significant increase in applications the Home Office is currently dealing with, it could take longer. However, in some cases, particularly where the online process has been used, applications have been approved well before the six-month deadline.

## Can I Lose My Permanent Residence Status Once I Have Acquired It?

Under current law, having acquired permanent residence (whether or not you obtain a permanent residence document), you will generally only lose it if you leave the UK for more than two consecutive years. In addition, of course, under the UK government’s proposals, permanent residence will cease to be recognised as such once the UK leaves the EU, hence the need to apply for settled status. According to the December Joint Report, those who obtain a settled status document will only lose that status if they are absent from the UK for more than five consecutive years.

## Can I Apply for British Citizenship?

Yes, if you have lived in the UK for a continuous period of five years and are the spouse or civil partner of a British citizen, or for a period of six years if you are not the spouse or civil partner of a British citizen. You would first need to obtain a permanent residence document before applying for British citizenship (or a settled status document, once we leave the EU). There are also additional qualifying criteria, including stricter UK absence rules than those for acquiring permanent residence and a requirement to pass a “Life in the UK” and English language test. EEA nationals with non-EEA dependant family members with them in the UK should seek further advice before applying for British citizenship, as this may affect the rights of those non-EEA dependant family members. You should also check first whether your home country will allow dual nationality – some do, but others do not, and acquiring British citizenship could lead to you forfeiting your nationality of origin.

## What About UK Citizens Living in Other EU Countries?

The UK government has said that UK citizens currently in the EU will be able to “[continue living their lives as they do now](#)”. The December Joint Report indicates that the EU and the UK have agreed a number of points in principle which largely reflect those for EU citizens in the UK.

However, the EU’s draft Withdrawal Agreement proposes that UK citizens living in one EU member state on Exit Date will lose their rights of free movement across the other EU member states. In addition, the draft Withdrawal Agreement makes no comment on the position of UK citizens who move to the EU after Exit Date even though the UK government proposes that, during the implementation period, they should be able to visit, live and work as they do now.

## What About Irish Citizens?

The UK government has indicated that its proposals are without prejudice to Common Travel Area arrangements between the UK and Ireland (and the Crown Dependencies) and the rights of British and Irish citizens in each other’s countries rooted in the Ireland Act 1949. Irish citizens residing in the UK will not, therefore, need to apply for settled status to protect their entitlement to reside in the UK.

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