



Home Office

EU Settlement Scheme public beta phase: EU citizens and their family members

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About this guidance

This guidance tells you how to consider applications under the EU Settlement Scheme during the public beta phase from 21 January 2019.

The EU Settlement Scheme provides a basis, consistent with the draft Withdrawal Agreement with the EU published on 14 November 2018, for EU citizens resident in the UK and their family members to apply for the UK immigration status which they will require to remain here beyond the end of the planned implementation period on 31 December 2020.

Immigration status granted under the EU Settlement Scheme is either indefinite leave to remain (ILR) – also referred to for the purposes of the scheme as ‘settled status’ – or 5 years’ limited leave to remain (LTR) – also referred to as ‘pre-settled status’.

Paragraph 1.15 of the Statement of Intent on the EU Settlement Scheme published on 21 June 2018 states:

The Home Office will work with applicants to help them avoid any errors or omissions that may impact on the application decision. Caseworkers will have scope to engage with applicants and give them a reasonable opportunity to submit supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. A principle of evidential flexibility will apply, enabling caseworkers to exercise discretion in favour of the applicant where appropriate, to minimise administrative burdens. User-friendly guidance will be available online to guide applicants through each stage of the application process.

This guidance for caseworkers has been developed to support that approach.

The EU Settlement Scheme will also be the basis on which EU citizens resident in the UK by 29 March 2019 and their family members will be able to obtain UK immigration status in order to remain here in the event of the UK leaving the European Union without a deal. The [policy paper](#) on citizens’ rights in a ‘no deal’ scenario published by the Government on 6 December 2018 set out the changes that would be made to the scheme in a ‘no deal’ scenario.

The EU Settlement Scheme will be referred to as ‘the scheme’ for the purposes of this guidance.

Application process

During the public beta phase applicants must apply by using the relevant online application form and the relevant process set out in that form for providing the required proof of identity and nationality.

For use during public beta phase

In line with the draft Withdrawal Agreement, other than for proof of their identity and nationality, applicants may submit a photocopy, photograph or scanned digital image of any required evidence. You can require that they submit the original document(s) where you have reasonable doubt as to the authenticity of the copy submitted.

Cost of application

The application fee for the scheme is £65, or £32.50 for those aged under 16 at the date of application.

There is no application fee where the applicant has previously been issued a permanent residence document (a document certifying permanent residence, or a permanent residence card issued by the UK under the Immigration (European Economic Area) Regulations 2006 or 2016), and this status either:

- has not lapsed, through absence from the UK for a period of more than 2 consecutive years
- has lapsed, but the relevant absence is not more than 5 consecutive years
- has not been lost (for example because a deportation order or exclusion order has been made in relation to the applicant)

There is no application fee where the applicant has previously been granted indefinite leave to enter (ILE) or ILR under another provision of the Immigration Rules, and this status has not lapsed through absence from the UK for a period of more than 2 consecutive years; and has not been revoked or invalidated.

There is no application fee where the applicant is a child under the age of 18 being 'looked after' by a local authority.

Applicants under the scheme will not be required to pay the Immigration Health Charge.

The best interests of a child

The duty in [section 55 of the Borders, Citizenship and Immigration Act 2009](#) to have regard to the need to safeguard and promote the welfare of a child under the age of 18 in the UK, together with Article 3 of the UN Convention on the Rights of the Child, means that consideration of the child's best interests must be a primary consideration in immigration decisions affecting them. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that we give practical effect to these obligations.

Where a child or children in the UK will be affected by the decision, you must have regard to their best interests in making the decision. You must carefully

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consider all the information and evidence provided concerning the best interests of a child in the UK and the impact the decision may have on the child.

Contacts

If you have any questions about this guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, then email the European Migration Policy Team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then email the Guidance Rules and Forms Team.

Clearance

Below is information on when this version of the guidance was cleared:

- version 1.0.
- published for Home Office staff on 21 January 2019

Changes from last version of this guidance

This is new guidance.

Related content

[Contents](#)

Related external links

[Statement of changes to the Immigration Rules: HC 1849, 20 December 2018](#)
[Citizens' rights in a 'no deal' scenario](#)

Who can apply

Applications can be made under the public beta phase of the EU Settlement Scheme (to which this guidance relates) with effect from 21 January 2019. If an application has been made under Appendix EU on or after 1 November 2018 and before 22 December 2018 under the private beta 2 phase, the application will be decided in accordance with the Immigration Rules and guidance in force on 21 December 2018.

An application can be made under Appendix EU during the public beta phase from 21 January 2019 by an applicant who, at the date of application, is either:

- (a) An EU citizen (but not a British citizen) who has a valid passport as a national of that EU country; or
- (b) A non-EU citizen who has been issued by the Secretary of State with a residence card or permanent residence card under the Immigration (European Economic Area) Regulations 2016, on the basis of an application made on or after 6 April 2015.

An application cannot be made during the public beta phase by a person relying on their EU law rights as a family member of a British citizen ('Surinder Singh' cases) or of a dual British/EU citizen ('Lounes' cases). The relevant provisions of Appendix EU for those cases are expected to be implemented from 30 March 2019 as part of the full opening of the scheme by that date.

Nationals of Iceland, Lichtenstein, Norway and Switzerland are not eligible to apply during the public beta phase. The agreements on citizens' rights negotiated with those non-EU countries mean that the scheme is expected to be open to their nationals and their family members from 30 March 2019.

A person who is exempt from immigration control, for example foreign diplomats, consular staff and members of certain international organisations, cannot apply for leave to remain under the Immigration Rules and therefore cannot apply under the scheme.

An application cannot be made during the public beta phase by a person who is not part of the cohort eligible for that phase.

EU citizens

An EU citizen is defined in Annex 1 of Appendix EU as:

- a person who is a national of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain or Sweden

Relevant EU citizens

A relevant EU citizen is defined in Annex 1 to Appendix EU as either:

- an EU citizen who is continuously resident in the UK
- an EU citizen who, having been continuously resident in the UK, has been or is being granted ILR under Appendix EU (or who would be granted that leave if they made a valid application for it)
- where the applicant is their family member, a relevant naturalised British citizen who is continuously resident in the UK (a relevant naturalised British citizen is a dual British-EU citizen in line with the Court of Justice of the European Union (CJEU) judgment in Lounes)

Irish citizens

Irish citizens enjoy a right of residence in the UK that is not reliant on the UK's membership of the EU.

This means that Irish citizens do not need to apply for status under the scheme. Nonetheless, Irish citizens can make an application under the scheme, should they wish to do so.

Their family members (who are not Irish citizens or British citizens and who do not have leave to remain in the UK) will need to make an application for status under the EU Settlement Scheme. They are able to do so during the public beta phase where they meet the criteria outlined in the section of this guidance on [who can apply](#).

Non-EU citizen family members

A non-EU citizen will be able to apply where they have previously been issued with a biometric residence card under the Immigration (European Economic Area) Regulations 2016 ('the EEA Regulations'), on the basis of an application made on or after 6 April 2015, as a family member or former family member of an EU citizen.

They can only apply during the public beta phase where they meet the criteria outlined in the section of this guidance on [who can apply](#).

Eligible family members

As set out in the definitions in Annex 1 to Appendix EU of 'family member of a relevant EU citizen', the categories of family member of a relevant EU citizen who can apply are:

- spouse

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- civil partner
- durable partner (unmarried partnership akin to marriage or civil partnership)
- child, grandchild or great-grandchild (including of the spouse or civil partner)
- dependent parent, grandparent or great-grandparent (including of the spouse or civil partner)
- dependent relative (including of the spouse or civil partner where the applicant holds a relevant document in the UK as the result of an application made before 1 February 2017)

A person can also apply on the basis of retaining a right of residence: for further information please see [a family member who has retained the right of residence](#).

Family members can only apply during the public beta phase where they meet the criteria outlined in the section of this guidance on [who can apply](#).

A relevant document

Wherever this guidance makes reference to 'a relevant document' it means a family permit, registration certificate, residence card, document certifying permanent residence or permanent residence card which:

- was issued by the UK under the EEA Regulations (and was not subsequently revoked, or fell to be so, because the relationship or dependency had never existed or had ceased)
- has not expired or which remained valid for the period of residence relied upon

Under transitional provisions in the EEA Regulations, a document issued under the 2000 or 2006 Regulations is to be treated as though issued under the EEA Regulations 2016.

Related content

[Contents](#)

Related external links

[Statement of changes to the Immigration Rules: HC 1849, 20 December 2018](#)
[Immigration \(European Economic Area\) Regulations 2016](#)

Making an application: validity

This section tells you how to check an application is valid under rule EU9 of Appendix EU. You must check:

- it has been made in the UK using the required application process
- any required fee has been paid in full in accordance with the required application process
- the required proof of identity and nationality has been provided
- the required biometrics have been provided

Required application process

During the public beta phase, applicants must apply by using the relevant online application form and the relevant process set out in that form for providing the required proof of identity and nationality (which is to use the identity verification app, with scope for the document to be submitted by post if its chip cannot be read by the app for technical reasons).

Required fee

For information on fees see [cost of application](#).

Required proof of identity and nationality

During the public beta phase, for an EU citizen, this will be their valid passport.

During the public beta phase, for a non-EU citizen, this will be their valid biometric residence card issued under the EEA Regulations.

'Valid' here means that the document is genuine and has not expired or been cancelled or invalidated.

Evidence of the EU citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuous residence (for the period on the basis of which they were granted status) in any subsequent application under the scheme by a person relying on their family relationship to that EU citizen.

Required biometrics

Under the Immigration (Provision of Physical Data) Regulations 2006 (as amended), all applicants during the public beta phase will be required to

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provide a passport-style facial photograph of themselves (within the meaning of “biometric information” in section 15 of the UK Borders Act 2007) as part of the required application process.

Validity consideration

If an applicant submits an application during the public beta phase which is missing any of the components required at rule EU9(a), (c) and (d) of Appendix EU for it to be valid, they must be prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application.

The relevant validity requirements in those sub-paragraphs of rule EU9 are:

- (a) It has been made in the UK using the required application process
- (c) The required proof of identity and nationality has been provided
- (d) The required biometrics have been provided

Should the validity requirements at rule EU9(a), (c) or (d) not be met after the applicant has been prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application, the application must be rejected as invalid under rule EU10 of Appendix EU. Where it is rejected, the application fee, if paid in full or in part, will be retained.

Rejection as invalid for non-payment of fee

Under rule EU9(b) of Appendix EU, any required fee must have been paid in full in accordance with the required application process for the application to be valid.

The required application process does not currently provide scope for the applicant to be given a further payment opportunity where, as part of that process, they do not pay any required fee in full when asked to do so.

During the public beta phase, where any required fee has not been paid in full, the application must be rejected as invalid under rule EU10 of Appendix EU.

Where the fee for under-16s (£32.50) has been paid in error by an applicant aged 16 or over who is required to pay a fee of £65, and who has made an application which is otherwise valid, the incorrect fee must be refunded.

Where an application was thought to be valid on the basis that no fee was required because the applicant claimed to have a valid permanent residence document or valid indefinite leave to remain or enter, but you find that they do not do so, the applicant must be given a reasonable opportunity to provide evidence substantiating their claim to hold a valid permanent residence

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document or valid indefinite leave to remain or enter. If this is not provided, the application must be rejected as invalid under rule EU10 of Appendix EU.

For further guidance on assessing whether an applicant holds a valid permanent residence document or valid indefinite leave to remain or enter, please see sections [documented right of permanent residence](#) and [existing indefinite leave to enter or remain](#).

Treating an application as void

An application must be treated as void, and any application fee paid refunded, where:

- the applicant is a British citizen (including a dual British citizen)
- the applicant dies before their application is decided
- the applicant is not part of the cohort eligible to apply during the public beta phase: see [who can apply](#).
- a person who is exempt from immigration control

Certificate of application

A digital certificate of application under the EU Settlement Scheme is issued by the Home Office to confirm that the applicant has submitted a valid application under the scheme. It does not confirm that the person has immigration status in the UK. A certificate of application will be issued to the applicant on receipt of a valid application by them under the scheme.

Official – sensitive: start of section

The information on this page has been removed as it is restricted for internal Home Office use.

Official – sensitive: end of section

Related content

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Related external links

[Statement of changes to the Immigration Rules: HC 1849, 20 December 2018](#)
[Immigration \(European Economic Area\) Regulations 2016](#)

Withdrawing an application

An applicant may request to withdraw their application at any time after it has been submitted but before it has been decided.

Requesting withdrawal

The applicant must request withdrawal of an application in writing using the online 'ask a question about applying for settled status' form found at <https://eu-settled-status-enquiries.service.gov.uk/start>, selecting the option for asking a question about 'An application submitted and in progress'. The date of withdrawal is the date this request is received by the Home Office.

Any fee paid will be refunded where compassionate or exceptional circumstances apply.

Travel outside the Common Travel Area

An application made under Appendix EU will not be treated as withdrawn if the applicant travels outside the Common Travel Area before the application has been decided.

Variations

This section tells you how to deal with a variation of an application. An applicant can only have one valid application for leave to remain outstanding at any one time.

Application pending under the EU Settlement Scheme

If an applicant has an application pending under the scheme and then makes a subsequent application for leave to remain under another part of the Immigration Rules, the original application will be varied by the second application and must no longer be considered. You must refund any fee paid in respect of the application under the scheme.

Application pending under another part of the Immigration Rules

If an applicant has an application for leave to remain pending under another part of the Immigration Rules and then makes an application under the scheme, the original application will be varied by the scheme application and must no longer be considered. You must refund any fee paid in respect of the original application.

Application made under the EU Settlement Scheme and the Immigration (European Economic Area) Regulations 2016

An applicant can hold status under the EU Settlement Scheme and a document under the Immigration (European Economic Area) Regulations 2016. If an applicant applies under one while they have an application pending under the other, you must process both applications and retain the fees paid.

Related content

[Contents](#)

Related external links

[Statement of changes to the Immigration Rules: HC 1849, 20 December 2018](#)

Making an application: eligibility

This section tells you the requirements for eligibility of an applicant for indefinite leave to remain (ILR) under the EU Settlement Scheme – also referred to for the purposes of the scheme as ‘settled status’ – or for 5 years’ limited leave to remain (LTR) under the scheme – also referred to as ‘pre-settled status’.

Where the applicant is an EU citizen resident in the UK as a family member of an EU citizen resident here, the applicant will be able to rely on their own continuity of residence as a relevant EU citizen to apply for status under the scheme, or they can apply as a family member if they prefer: see [family members](#).

EU citizens

Documented right of permanent residence

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 1 in rule EU11, where they have a documented right of permanent residence, and no supervening event has occurred.

This means that you are satisfied from the information available to you that the applicant has been issued with a document certifying permanent residence under regulation 19 of the EEA Regulations, or with a residence permit or residence document under the Immigration (European Economic Area) Order 1994 endorsed to show permission to remain in the UK indefinitely, and:

- this document is not invalid under regulation 19(4)(c)
- this document has not been revoked, and its renewal has not been refused, under regulation 24 (except where the revocation or refusal occurred because the person had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person’s right to reside has not been cancelled under regulation 25

It also means that:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations or since they last completed a period of 5 years’ continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:

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- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

Existing indefinite leave to enter or remain

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 2 in rule EU11, where there is valid evidence of their indefinite leave to enter or remain in the UK.

This means either:

- a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007), a valid stamp or endorsement in a passport (whether or not the passport has expired) or other valid document issued by the Home Office, confirming that the applicant has indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated
- you are otherwise satisfied from the information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK, and this status both:
 - has not lapsed through absence from the UK for a period of more than 2 consecutive years
 - has not been revoked or invalidated

Continuous residence of 5 years

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 3 in rule EU11, where they have been continuously resident in the UK for 5 years and no supervening event has occurred, which means that since completing that 5 year period:

- they have not been absent from the UK for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations

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- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

Ceased activity

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 4 in rule EU11, with less than 5 years' continuous residence in the UK, where they either:

- were a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or, in the case of a worker, having taken early retirement and:
 - immediately before that, they had been a worker or self-employed person in the UK for at least the preceding 12 months
 - had been continuously resident in the UK for more than the preceding 3 years
- stopped being a worker or self-employed person owing to permanent incapacity to work and either:
 - had been continuously resident in the UK for more than the preceding 2 years
 - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK
- were continuously resident in the UK for at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country, while retaining a place of residence in the UK to which they return, as a rule, at least once a week

The conditions as to length of residence and length of employment in the first 2 provisions above do not apply where the EU citizen is the spouse or civil partner of a British citizen.

And, in any case, no supervening event has occurred, which means that since the EU citizen ceased activity:

- they have not been absent from the UK for a period of more than 5 consecutive years

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- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

For further information on how to consider an application that meets these requirements please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

Child under the age of 21

An EU citizen will be eligible for ILR under the scheme, as a child under the age of 21 under condition 7 in rule EU11, including where they have less than 5 years' continuous residence in the UK, where they:

- are a child under the age of 21 of a relevant EU citizen or of their spouse or civil partner (see [assessing family relationship](#)) and either
 - the relevant EU citizen (or the spouse or civil partner) has been or is being granted indefinite leave to remain under the scheme
 - where the child's parent is an Irish citizen who has not made a valid application under the scheme, they would be granted that leave if they made such an application

Less than 5 years' continuous residence

An EU citizen who has been continuously resident in the UK for less than 5 years at the date of application, and who does not qualify under one of the routes to ILR for those with less than 5 years' continuous residence, will be eligible for 5 years' limited leave to remain, as a relevant EU citizen under condition 1 in rule EU14.

For further information on how to consider an application that meets these requirements please see [consideration of applications - limited leave to remain \(LTR\)](#) below.

Related content

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Related external links

[Statement of changes to the Immigration Rules: HC 1849, 20 December 2018](#)
[Immigration \(European Economic Area\) Regulations 2016](#)

Family members

Who can apply as a family member?

The following EU citizen or non-EU citizen family members of an EU citizen will be eligible to apply, where they are continuously resident in the UK:

- [Spouse](#)
- [Civil partner](#)
- [Durable partner](#) (unmarried partner whose relationship is akin to marriage or civil partnership, and the applicant holds a relevant document in this capacity)
- [Child under 21 of the EU citizen or of the spouse or civil partner](#)
- [Dependent child over 21 of the EU citizen or of the spouse or civil partner](#)
- [Dependent parent of the EU citizen or of the spouse or civil partner](#)
- [Dependent relative of the EU citizen](#) or of the spouse or civil partner (and the applicant holds a relevant document in this capacity which, where they are the dependent relative of the spouse or civil partner, must have been granted on the basis of an application made before 1 February 2017)

An application cannot be made during the public beta phase by a person relying on their EU law rights as a family member of a British citizen ('Surinder Singh' cases) or of a dual British/EU citizen ('Lounes' cases).

Documented right of permanent residence

A family member will be eligible for ILR under the scheme, under condition 1 in rule EU11, as the family member of a relevant EU citizen (or as [a family member who has retained the right of residence](#) by virtue of a relationship with a relevant EU citizen), where they have a documented right of permanent residence, and no supervening event has occurred.

This means that you are satisfied from the information available to you that the applicant has been issued with a document certifying permanent residence or a permanent residence card under regulation 19 of the EEA Regulations, or with a residence permit or residence document under the Immigration (European Economic Area) Order 1994 endorsed to show permission to remain in the UK indefinitely, and:

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- this document is not invalid under regulation 19(4)(c) and, if this document is a permanent residence card, it was issued or renewed within the last 10 years
- this document or card has not been revoked, and its renewal has not been refused, under regulation 24 (except where the revocation or refusal occurred because the person had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person's right to reside has not been cancelled under regulation 25

It also means that:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

Existing indefinite leave to enter or remain

A family member will be eligible for ILR under the scheme, under condition 2 in rule EU11, as a family member of a relevant EU citizen (or as [a family member who has retained the right of residence](#) by virtue of a relationship with a relevant EU citizen), where there is valid evidence of their indefinite leave to enter or remain in the UK.

This means that either:

- a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007), a valid stamp or endorsement in a passport (whether or not the passport has expired) or other valid document issued by the Home Office, confirming that the applicant has indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated
- you are otherwise satisfied from the information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated

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Where the applicant is a non-EU citizen, it also means that they have provided the required evidence of their family relationship to a relevant EU citizen (see [assessing family relationship](#)).

5 years' continuous residence

A family member will be eligible for ILR under the scheme, as the family member of a relevant EU citizen (or as [a family member who has retained the right of residence](#) by virtue of a relationship with a relevant EU citizen) under condition 3 in rule EU11, where:

- they have provided the required evidence of their family relationship to a relevant EU citizen (see [assessing family relationship](#))
- they have been continuously resident in the UK for 5 years as such a family member (or as a relevant EU citizen, as [a family member who has retained the right of residence](#) by virtue of a relationship with a relevant EU citizen, or in any combination of those categories)
- since completing that 5 year period:
 - they have not been absent from the UK for a period of more than 5 consecutive years
 - none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1).

Child under the age of 21

A child under the age of 21 will be eligible for ILR under the scheme under condition 7 in rule EU11, including where they have less than 5 years' continuous residence in the UK, where they:

- are a child under the age of 21 of a relevant EU citizen or of their spouse or civil partner (see [assessing family relationship](#)) and either
 - the relevant EU citizen (or the spouse or civil partner) has been or is being granted indefinite leave to remain under the scheme

For use during public beta phase

- where the child's parent is an Irish citizen who has not made a valid application under the scheme, they would be granted that leave if they made such an application

The relevant EU citizen has ceased activity

A family member will be eligible for ILR under the scheme – as the family member of a relevant EU citizen who has ceased activity, under condition 5 in rule EU11 – with less than 5 years' continuous residence in the UK, where the relevant EU citizen has been or is being granted ILR under Appendix EU (or would be so if they made a valid application) and:

- the applicant has provided the required evidence of their family relationship to the relevant EU citizen (see [assessing family relationship](#))
- the relevant EU citizen was a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or, in the case of a worker, having taken early retirement and:

- immediately before that, they had been a worker or self-employed person in the UK for at least the preceding 12 months
- had been continuously resident in the UK for more than the preceding 3 years

or:

- the relevant EU citizen stopped being a worker or self-employed person owing to permanent incapacity to work and either:
 - had been continuously resident in the UK for more than the preceding 2 years
 - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK

or:

- the relevant EU citizen was continuously resident in the UK for at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country, while retaining a place of residence in the UK to which they return, as a rule, at least once a week

The conditions as to length of residence and of employment in the second and third provisions above do not apply where the relevant EU citizen is the spouse or civil partner of a British citizen.

For use during public beta phase

The applicant will be eligible for indefinite leave to remain (ILR) where they were the family member of the relevant EU citizen at the point at which the relevant EU citizen became a person who has ceased activity and both:

- since that point, the applicant has not been absent from the UK for a period of more than 5 consecutive years
- since that point, none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

The relevant EU citizen has died

A family member will be eligible for ILR under the scheme – as the family member of a relevant EU citizen who has died, under condition 6 in rule EU11 – with less than 5 years' continuous residence in the UK, where the criteria in this section are met.

To be eligible for ILR as a family member of a relevant EU citizen who has died, the applicant must meet all of the following:

- provide the required evidence of their family relationship to the relevant EU citizen (see [assessing family relationship](#))
- be the family member of a relevant EU citizen who was a worker or self-employed person in the UK (within the meaning of the EEA Regulations) at the time of their death
- the relevant EU citizen was continuously resident in the UK for at least 2 years before dying, or the death was the result of an accident at work or an occupational disease
- the applicant was resident in the UK with the relevant EU citizen immediately before their death
- since the death of the relevant EU citizen, the applicant has not been absent from the UK for a period of more than 5 consecutive years
- since the death of the relevant EU citizen, none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:

For use during public beta phase

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

If the applicant does not meet these criteria, you must consider if they have retained a right of residence.

A family member who has retained the right of residence

Where the applicant is a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, they can qualify for ILR under condition 1 (documented right of permanent residence) or condition 2 (existing evidence of indefinite leave to enter or remain) in rule EU11, as set out above.

Otherwise, where the applicant is a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, they will be eligible for ILR, under condition 3 in rule EU11, on the basis of 5 years' continuous residence (as such a family member or, prior to that, as a family member of a relevant EU citizen or as a relevant EU citizen) where the criteria in this section are met.

To be eligible to apply for ILR as a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, on the basis of 5 years' such continuous residence, the applicant must provide the required evidence of their family relationship to the relevant EU citizen (see [assessing family relationship](#)) and the applicant must:

- be a non-EU citizen who was the family member of a relevant EU citizen and that person died
- have been continuously resident in the UK as the family member of that relevant EU citizen for at least the year immediately before the death of that person

Or the applicant must either:

- be the child of a relevant EU citizen who has died, or of their spouse or civil partner immediately before their death
- be the child of a person who ceased to be a relevant EU citizen on ceasing to reside in the UK, or of their spouse or civil partner at that point

And, in either of the 2 points above, the child must have been attending a general educational course, apprenticeship or vocational training course in the

For use during public beta phase

UK immediately before the relevant EU citizen died or ceased to be a relevant EU citizen on ceasing to reside in the UK, and the child must continue to attend such a course.

Or the applicant must:

- be the parent with custody of such a child (meaning that the child normally lives with them or does so part of the time, and includes arrangements which have been agreed informally and those which are subject to a court order for determining with whom the child is to live and when)

Or the applicant must:

- be a non-EU citizen who has ceased to be a family member of a relevant EU citizen on the termination of their marriage to, or civil partnership with, that person - and, for these purposes, where, after the initiation of the proceedings for that termination, that relevant EU citizen ceased to be a relevant EU citizen, they will be deemed to have remained a relevant EU citizen until that termination
- have been resident in the UK at the date of the termination
- meet one of the following:
 - prior to the initiation of the proceedings for the termination of the marriage or civil partnership, the marriage or civil partnership had lasted for at least 3 years and the parties to the marriage or civil partnership had been continuously resident in the UK for at least 1 year during its duration
 - the applicant has custody of a child of the EU citizen
 - the applicant has the right of access to a child of the EU citizen, where the child is under the age of 18 years and where a court has ordered that such access must take place in the UK
 - the continued right of residence in the UK of the applicant is warranted by particularly difficult circumstances, such as where the applicant or another family member has been a victim of domestic violence or abuse whilst the marriage or civil partnership was subsisting

And, in any case, to be eligible for ILR on the basis of 5 years' continuous residence, including as a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, then since completing that 5 year period both the following must apply:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years

For use during public beta phase

- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

For further information on how to consider an application that meets any of these requirements for ILR, please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

Less than 5 years' residence

A family member of a relevant EU citizen, or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, who has been continuously resident in the UK for less than 5 years at the date of application, and who does not qualify under one of the routes to ILR for those with less than 5 years' continuous residence, will be eligible for 5 years' limited leave to remain (LTR), under condition 1 in rule EU14.

For further information on how to consider an application that meets these requirements please see [consideration of applications - limited leave to remain \(LTR\)](#) below.

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[Statement of changes to the Immigration Rules: HC 1849, 20 December 2018](#)
[Immigration \(European Economic Area\) Regulations 2016](#)

Assessing family relationship

Where the applicant is an EU citizen resident in the UK as a family member of an EU citizen resident here, the applicant will be able to rely on their own continuity of residence as a relevant EU citizen to apply for status. They will not need to provide evidence of their family relationship to that EU citizen unless either:

- they are relying on that relationship in one of the categories eligible for settled status with less than 5 years' continuous residence
- they are relying on a retained right of residence by virtue of a relationship with a relevant EU citizen after that relationship has ended
- they became an EU citizen within a period of continuous residence in which they otherwise rely on having been a non-EU citizen family member of an EU citizen

Otherwise, the following family members of a relevant EU citizen will be eligible to apply for status under the scheme on the basis of their relationship to that relevant EU citizen. The following detailed criteria apply in respect of each of these categories of family member at the date the person applies under the scheme.

Spouse

The applicant is (or for the relevant period was) party to a marriage with the relevant EU citizen and the marriage is recognised under the law of England and Wales, Scotland or Northern Ireland; and it is (or for the relevant period was) not a marriage of convenience; and neither spouse has (or for the relevant period had) another spouse, a civil partner or a durable partner with immigration status in the UK based on that person's relationship with that spouse.

Where the applicant does not already hold a permanent residence document, a spouse must provide evidence of the family relationship for the relevant period, namely a relevant document as the spouse of the relevant EU citizen or a valid document of record of a marriage recognised under the law of England and Wales, Scotland or Northern Ireland.

Civil partner

The applicant is (or for the relevant period was) in a valid civil partnership (which exists or existed under or by virtue of the Civil Partnership Act 2004) or in a same sex relationship registered overseas (entitled to be treated as a civil partnership under that Act) with the relevant EU citizen; it is (or for the relevant period was) not a civil partnership of convenience; and neither civil

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partner has (or for the relevant period had) another civil partner, a spouse or a durable partner with immigration status in the UK based on that person's relationship with that civil partner.

Where the applicant does not already hold a permanent residence document, a civil partner must provide evidence of the family relationship for the relevant period, namely a relevant document as the civil partner of the relevant EU citizen; a valid civil partnership certificate recognised under the law of England and Wales, Scotland or Northern Ireland; or the valid overseas registration document for a same sex relationship which is entitled to be treated as a civil partnership under the Civil Partnership Act 2004.

Durable partner

The applicant is (or for the relevant period was) in a durable relationship with the relevant EU citizen, with the couple having lived together in a relationship akin to marriage or civil partnership for 2 years or more, unless there is other significant evidence of the durable relationship, for example, evidence of joint responsibility for a child (a birth certificate or a custody agreement showing they are cohabiting and sharing parental responsibility).

The durable partnership must not be (or have been) one of convenience; and neither durable partner has (or for the relevant period had) another durable partner, a spouse or a civil partner with immigration status in the UK based on that person's relationship with that durable partner.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document as the durable partner of the relevant EU citizen, and evidence which satisfies you that the durable partnership continues to subsist (or did so for the period of residence relied upon). This evidence might, for example, take the form of:
 - evidence of cohabitation (bank statements or utility bills in joint names at the same address, residential tenancy or rental agreements or mortgage statements, official correspondence which links them at the same address)
 - evidence of joint finances, business ventures or commitments (tax returns of business contracts, investments)

This is not an exhaustive list and applications must be considered on a case by case basis.

Marriage, civil partnership or durable partnership of convenience

A marriage, civil partnership or durable partnership of convenience is defined as a marriage, civil partnership or durable partnership entered into as a means to circumvent either:

- any criterion the party would have to meet in order to enjoy a right to enter or reside in the UK under the EEA Regulations
- any other provision of UK immigration law or any requirement of the Immigration Rules
- any criterion the party would otherwise have to meet in order to enjoy a right to enter or reside in the UK under EU law

Child under 21

The applicant must be the direct descendant of the relevant EU citizen or of their [spouse](#) or [civil partner](#) and includes a grandchild or great-grandchild.

In addition, 'child' includes:

- an adopted child of
- a child born through surrogacy (where recognised in UK law) for
- a child in respect of whom a special guardianship order (within the meaning of section 14A(1) of the Children Act 1989) is in force appointing as their special guardian
- a child in respect of whom an order has been made under section 5 of the Children Act 1989 appointing as their guardian
- a child subject to a permanence order made under section 80 of the Adoption and Children (Scotland) Act 2007 vesting parental responsibilities and parental rights in a person who is
- a child who has a guardian appointed under section 7 of the Children (Scotland) Act 1995, or who is living with a person pursuant to an order made under section 11 of that Act and that guardian or other person is
- a child in respect of whom an order has been made under Article 159 of the Children (Northern Ireland) Order 1995, or in respect of whom an appointment has been made under Article 160 of that Order appointing as their guardian a person who is

the relevant EU citizen or their [spouse](#) or [civil partner](#).

For use during public beta phase

It does not include a child cared for by the EU citizen or by their [spouse](#) or [civil partner](#) solely by virtue of a formal or informal fostering arrangement, but this does not prevent an application being made by or on behalf of a 'looked after' child whom a local authority has placed in foster care.

'Looked after' in this context means the care comes within the meaning of section 22(1) of the Children Act 1989, section 17(6) of the Children (Scotland) Act 1995, section 74(1) of the Social Services and Well-being (Wales) Act 2014 or article 25(1) of the Children (Northern Ireland) Order 1995.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate(s) or other document(s) which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EU citizen or of their [spouse](#) or [civil partner](#)

In the case of an adopted child, surrogate child or a child subject to any of the guardianship orders referred to above, you must discuss the case with your senior caseworker who may refer to the European Migration Policy Team for further advice.

Child aged 21 or over

The applicant must be the direct descendant of the relevant EU citizen or of their [spouse](#) or [civil partner](#) and includes a grandchild or great-grandchild and be dependent on the relevant EU citizen or on that spouse or civil partner.

'Dependent' means, as per the CJEU judgment in Reyes, that, as demonstrated by relevant financial, medical or other documentary evidence:

- having regard to their financial and social conditions, or health, the applicant cannot, or for the relevant period could not, meet their essential living needs (in whole or in part) without the financial or other material support of the relevant EU citizen or of the spouse or civil partner
- such support is, or was, being provided to the applicant by the relevant EU citizen or by the spouse or civil partner
- where the applicant was aged 21 or over when they came to the UK to join the relevant EU citizen or the spouse or civil partner, the need for such support existed in the applicant's state of origin or in the state

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from which they came to the UK, but there is no need to determine the reasons for that dependence or for the recourse to that support

In addition, 'child' includes:

- an adopted child of
- a child born through surrogacy (where recognised in UK law) for

the relevant EU citizen or their [spouse](#) or [civil partner](#).

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate(s) or other document(s) which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EU citizen or of their [spouse](#) or [civil partner](#)

In the case of an adopted or surrogate child you must discuss the case with your senior caseworker who may refer to the European Migration Policy Team for further advice.

You must be satisfied the applicant is dependent on the relevant EU citizen or on the spouse or civil partner. This evidence might take the form of:

- evidence of their dependency, for example, financial evidence of dependency, such as bank statements or money transfers to the applicant from the relevant EU citizen or the spouse or civil partner
- evidence, as above, of their dependency prior to coming to the UK, if appropriate
- where appropriate, evidence that the applicant needs the personal care of the EU citizen (or their spouse or civil partner) on serious health grounds, for example a letter from a hospital consultant

There may be circumstances where the child aged 21 or over does not receive financial support but they are still living in the family home and are unable to live independently, for example due to low income or they may be in further education and remain dependent on a parent for essential living needs. These circumstances must be considered on a case by case basis.

Dependent parent

The applicant must be the direct relative in the ascending line of the relevant EU citizen or of their [spouse](#) or [civil partner](#) and includes a grandparent or great-grandparent. Their dependency on the relevant EU citizen or the spouse or civil partner is assumed and the applicant is not required to provide evidence of this.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate(s) or other document(s) which you are satisfied evidences that the applicant is the direct relative in the ascending line of the relevant EU citizen or of the spouse or civil partner

Dependent relative

The applicant is a relative of their sponsor (but not their spouse, civil partner, durable partner, child or dependent parent), and is (or for the relevant period was) a dependant of the sponsor, a member of their household or in strict need of their personal care on serious health grounds. The applicant must also hold a relevant document as the dependent relative of their sponsor for the period of residence relied upon.

Their 'sponsor' means either:

- a relevant EU citizen who has been or is being granted indefinite leave to remain or limited leave to remain under the scheme (or who would be granted that leave, if they made a valid application under the scheme)
- the [spouse](#) or [civil partner](#) of such a relevant EU citizen, where the application for that relevant document was made before 1 February 2017

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document as the dependent relative of their sponsor, and evidence which satisfies you that the relationship continues to subsist (or did so for the period of residence relied upon) - the circumstances must be considered on a case by case basis

Other evidence

In addition to the criteria set out above, where the family member applying for status under the scheme is a non-EU citizen without the documented right of permanent residence, their status here under EU law depends on their current or past family relationship to an EU citizen resident in the UK. Therefore, the applicant will need to provide proof of the identity and nationality of the relevant EU citizen of whom the applicant is the family member (or was so for the relevant period). This will be:

- in the case of an EU citizen, their valid passport or their valid national identity card
- alternatively in the case of an Irish citizen, their full birth certificate from Ireland or other official documentation which satisfies you of their identity and Irish nationality

The applicant will also need to provide evidence which satisfies you of the relevant EU citizen's continuous residence in the UK as well as their own for the relevant period on which the applicant relies. Evidence of the relevant EU citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuous residence (for the period on the basis of which they were granted status).

You can agree to accept alternative evidence of the identity and nationality of the relevant EU citizen where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or to compelling practical or compassionate reasons.

For example, in cases where you are satisfied that there has been a permanent breakdown in the relationship between the applicant and the relevant EU citizen, it may not be possible for the applicant to obtain or produce the required document.

You must consider each case on its merits as to whether you are satisfied that the applicant cannot obtain or produce the required document, having made every reasonable effort to do so or shown why it is not possible for them to do so.

Also, where the eligibility requirements to be met for leave to be granted under the scheme relate to the death of a person, the required evidence of family relationship must include their death certificate or other evidence which you are satisfied evidences the death.

Applications in respect of children

Under section 55 of the Borders, Immigration and Citizenship Act 2009, the Home Office has a duty to have regard to the need to safeguard and promote the welfare of children under the age of 18 who are in the UK. In respect of

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this guidance, the section 55 duty means you need to identify and act on any concerns about the welfare of any child of whom you become aware while considering an application under the scheme.

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[Immigration \(European Economic Area\) Regulations 2016](#)

Suitability

Rules EU15 and EU16 of [Appendix EU](#) set out the basis on which an application under Appendix EU will or may be refused on suitability grounds.

Under rule EU15 an application under Appendix EU will be refused on grounds of suitability where either of the following apply at the date of decision:

- the applicant is subject to a deportation order or to a decision to make a deportation order
- the applicant is subject to an exclusion order or exclusion decision.

If one of the orders or decisions specified in rule EU15 applies in respect of the applicant at the date the decision on the application under the scheme is made, the application must be refused.

Applicants (aged 18 or over) are required to provide information about previous criminal convictions in the UK and overseas and are only required to declare past criminal convictions which appear in their criminal record in accordance with the law of the State of conviction at the time of the application.

Applicants (aged 18 or over) are also required, as in other immigration applications, to declare whether they have any been involved in any terrorist related activities, war crimes, crimes against humanity or genocide.

All applications are subject to a check against the Police National Computer (PNC) and the Warnings Index (WI).

From information provided by the applicant and obtained from the PNC and WI, UK Visas and Immigration must conduct an initial assessment of suitability, taking account of length of previous residence where relevant, to establish whether the application should be referred to Immigration Enforcement (IE) for full case by case consideration of the individual's conduct under the public policy, public security or public health test as set out in the [EEA Regulations 2016](#). If a decision is then made by IE that falls within EU15, the application under the scheme will be refused by IE.

Under rule EU16 an application under Appendix EU may be refused on grounds of suitability where, at the date of decision, the decision-maker is satisfied that it is proportionate to refuse the application where either of the following applies:

- EU16(a): in relation to the application and whether or not to the applicant's knowledge, false or misleading information, representations or documents have been submitted (including false or misleading information submitted to any person to obtain a

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document used in support of the application), and the information, representation or documentation is material to the decision whether or not to grant the applicant indefinite leave to remain or limited leave to remain under the scheme

- EU16(b): the applicant is subject to a removal decision under the [EEA Regulations 2016](#) on the grounds of their non-exercise or misuse of rights under [Directive 2004/38/EC](#).

When considering whether to refuse on the basis of rule EU16(a), the decision-maker must examine whether the deception is material to the decision whether or not to grant the applicant indefinite leave to remain or limited leave to remain under the scheme. This is where the false or misleading information, representation or documentation concerns the applicant's ability to meet the requirements of Appendix EU. Where false information, representations or documents have been submitted, whether or not to the applicant's knowledge, and which are material to the decision whether or not to grant the applicant indefinite leave to remain or limited leave to remain under the scheme, the decision-maker may refuse the application on the basis of rule EU16(a), provided that it is proportionate to do so.

When considering whether to refuse on the basis of rule EU16(b), the decision-maker may refuse the application only where it is proportionate to do so.

Under rule EU17 the application must not be refused on the basis of an order or decision as specified in EU15 or EU16 which, at the date of decision on the application, has been set aside or no longer has effect in respect of the applicant.

See: EU Settlement Scheme: suitability requirements for more detailed guidance on suitability assessment.

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Qualifying residence

Continuity of residence

Being continuously resident in the UK generally means that the applicant has not been absent from the UK for more than 6 months in total (in a single period of absence or more than one) in any given 12-month period, throughout the period of residence relied upon by the applicant.

There are some exceptions:

- a single period of absence of more than 6 months but which does not exceed 12 months is permitted, where this is for an important reason, such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting:
 - evidence to support an absence as a result of pregnancy, childbirth or serious illness might take the form of a letter or other records from a qualified medical professional
 - evidence to support an absence as a result of study, vocational training or an overseas posting might take the form of a letter or other records from the relevant educational establishment or employer
- any period of absence on compulsory military service:
 - evidence to support a period of absence as a result of compulsory military service might take the form of a letter or other records from the relevant government body

Continuity of residence is also broken by any of the following, unless it has been set aside or no longer has effect in respect of the person:

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)
- an exclusion decision
- a deportation order (other than under the EEA Regulations)

Once a person has been continuously resident in the UK for 5 years, they may rely on this in applying for settled status under the scheme (under condition 3 in rule EU11) where, since completing that 5 year period, there

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has been no 'supervening event'. This means that, since completing that 5 year period, they have not been absent from the UK for more than 5 consecutive years and that none of the decisions or orders set out in the previous paragraph has been made in respect of the person, unless it has been set aside or no longer has effect.

Where a person has been continuously resident in the UK for less than 5 years, continuity of residence is broken, and restarts from scratch on release, where the applicant served or is serving a sentence of imprisonment of any length in the UK.

However, imprisonment which does not lead to deportation is not a 'supervening event' for the purposes of the scheme. This means that a person may rely on having previously acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations (or having previously completed five years' continuous residence) in applying for settled status even where they have been imprisoned since acquiring that right (or completing that period), provided that the imprisonment did not or does not lead to deportation.

For applications submitted as part of the public beta phase, residence in the Crown Dependencies (Guernsey, Jersey and the Isle of Man) does not count as qualifying residence under the scheme.

Automated checks (Application Programming Interface (API))

In all cases in which the applicant provides their National Insurance number checks will be run against HMRC and certain DWP records to establish what those records tell us about the applicant's recent continuous residence in the UK.

Where these checks indicate that the applicant has been continuously resident in the UK for 5 years, and where the applicant has confirmed, by way of a self-declaration as part of the application process, that they have not since been absent from the UK for a period of more than 5 consecutive years, no further evidence of residence will be required to determine eligibility. The applicant will be asked to confirm this is correct and, subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted indefinite leave to remain (ILR).

Where these checks indicate that the applicant has been continuously resident in the UK for less than 5 years, and the applicant confirms this (and does not claim to qualify for settled status on the basis of less than 5 years' continuous residence), no further evidence of residence will be required to determine eligibility. Subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted 5 years' limited leave to remain (LTR).

For use during public beta phase

Where these checks indicate that the applicant has been continuously resident in the UK for less than 5 years, and the applicant does not accept this (or claims to qualify for settled status on the basis of less than 5 years' continuous residence), the applicant will be asked to provide documentary evidence, to satisfy you of their eligibility for ILR. If the applicant does so, and subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted ILR. If they do not meet the eligibility requirements for ILR but have been continuously resident in the UK for less than 5 years, subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, they will be granted LTR.

Where these checks do not provide any evidence of the applicant's UK residence, or the applicant does not provide a National Insurance number, the applicant will be asked to provide documentary evidence to satisfy you that they meet the requirements for eligibility for either ILR or LTR. If the applicant does so, and subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted ILR or LTR as appropriate.

See [Annex A](#) for further information on evidence which may be provided where automated checks do not confirm continuity of residence as claimed by the applicant.

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[Immigration \(European Economic Area\) Regulations 2016](#)

Consideration of applications: indefinite leave to remain (ILR)

An applicant who has made a valid application will be eligible for indefinite leave to remain (ILR) as a relevant EU citizen or their family member where you are satisfied (including, where applicable, by the required evidence of family relationship) one of the conditions of rule EU11 of Appendix EU is met:

- [Permanent residence \(PR\) document holders](#)
- [Indefinite leave to remain \(ILR\) or indefinite leave to enter \(ILE\) holders](#)
- [Applicant has completed a continuous qualifying period of 5 years](#)
- [A relevant EU citizen who is a person who has ceased activity](#)
- [Family member of a relevant EU citizen who is a person who has ceased activity](#)
- [Family member of a relevant EU citizen who has died](#)
- [Child under the age of 21 years of a relevant EU citizen or of their spouse or civil partner](#)

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Permanent residence (PR) document holders

Under condition 1 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that they have a documented right of PR and no supervening event has occurred.

Requirements

You must be satisfied that, at the date of application:

- the applicant has been issued with a document certifying permanent residence or a permanent residence card under the EEA Regulations
- the document or card is not invalid under regulation 19(4)(c) because the applicant never had a right of permanent residence and, if a permanent residence card, was issued or renewed within the last 10 years
- the document or card has not been revoked, and its renewal has not been refused under regulation 24 (except where the revocation or refusal occurred because the applicant had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person's right to reside has not been cancelled under regulation 25

In addition, you must be satisfied that no supervening event has occurred. A supervening event means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of PR in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

Evidence to be produced

The applicant must provide confirmation, via self-declaration within the application process, that they have not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the

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right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK.

As set out above, you must be satisfied that the applicant has been issued with a document certifying permanent residence or a permanent residence card under the EEA Regulations.

If an applicant cannot provide the PR document or its reference number, for example because it is damaged or obscured, or it never had one, you must check Home Office records and, if there is no record available, contact the applicant for further details such as approximate date of issue to narrow any searches. If there is still no trace, the applicant must be invited to submit the document for you to consider. In these circumstances, you must discuss this with your senior caseworker.

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If the applicant has been subject to a decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations or a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK (unless that decision arose from a previous decision under regulation 24(1)), you must discuss with your senior caseworker before further action is taken.

Where an applicant has declared that they have a documented right of PR and they have not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK, but it is identified during the caseworking process that this is not the case, the applicant is not eligible for ILR under this condition. If the applicant has relied on their PR documentation as the basis for a fee exemption, this exemption does not apply and the application must be rejected as invalid on the grounds of non-payment of the required fee.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their eligibility for

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ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

Scenario 1

Miss A has applied on the basis of having documented permanent residence and has supplied her valid permanent residence card. There is no evidence to suggest that her permanent residence has lapsed. Miss A will be eligible for ILR, subject to identity and suitability checks.

Scenario 2

Mrs B applies and states that she has documented permanent residence, but information indicates that when she applied for her permanent residence document to be renewed her application was refused as she had been absent from the UK for more than 2 years since it was issued.

Evidence provided confirmed that Mrs B was out of the UK for 3 consecutive years and this does not therefore constitute a supervening event. Mrs B will be eligible for ILR, subject to identity and suitability checks.

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Indefinite leave to enter (ILE) or indefinite leave to remain (ILR) holders

Under condition 2 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that they are a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, and there is valid evidence of their ILE or ILR.

Requirements

You must be satisfied that, at the date of application, there is valid evidence of the applicant's ILE or ILR which means either:

- the applicant has been issued with a valid biometric residence permit, a valid stamp or endorsement in a passport (whether or not the passport has expired), or other valid document issued by the Home Office confirming that the applicant has ILE or ILR in the UK
- you are otherwise satisfied from the information available to you that the applicant has ILE or ILR in the UK
- in either case, the status has not lapsed (by an absence from the UK for a period of more than 2 consecutive years) or been revoked or invalidated (for example, because a deportation order has been made against the applicant)

Evidence to be produced

The applicant must provide confirmation, via self-declaration within the application process, that their ILE or ILR has not lapsed through absence from the UK for a period of more than 2 consecutive years or been revoked or invalidated.

As set out above, you must be satisfied that there is valid evidence of the applicant's ILE or ILR.

For information on evidence required to assess family relationships with family members of EU citizens, see [assessing family relationship](#).

Applicants unable to provide evidence of ILE / ILR

Where an applicant applies on the basis of having ILE or ILR but does not provide documentary evidence of this status, you must check Home Office records to confirm whether the Home Office holds any information confirming the status being claimed by the applicant. Where Home Office records confirm the status, you must accept this as evidence of that status.

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Applicants who claim to have an historical grant of ILE / ILR that they are unable to provide evidence of and which pre-dates current Home Office records may be able to apply under the Windrush Programme to have their status checked and documented. Further information can be found [here](#).

If the applicant is unable to provide any evidence of their status, and no such evidence exists in Home Office records, you are unable to grant the application under this condition.

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Where an applicant has declared that their ILE or ILR has not lapsed through absence from the UK for a period of more than 2 consecutive years or been revoked or invalidated but it is identified during the caseworking process that their status has, in fact, lapsed or been lost, you are unable to grant the application under this condition.

If the applicant has relied on their ILE or ILR status as the basis for a fee exemption, then, as the fee exemption does not apply, the application must be rejected as invalid on the grounds of non-payment of the required fee.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

Scenario 1

Mr C is the non-EU citizen spouse of an EU citizen and has applied on the basis of having ILR in the UK. He has provided his expired passport which contains a valid stamp confirming that he has been granted ILR along with evidence of his marriage to an EU citizen and there is no evidence to suggest that he has been absent from the UK for a period of more than 2 consecutive years. Mr C is eligible for ILR, subject to identity and suitability checks.

Scenario 2

Dr D, an EU citizen, claims to have been granted ILR but states that she has lost the relevant document.

Home Office records confirm that Dr D was granted ILR as claimed and there is no evidence to suggest this has lapsed or been revoked or invalidated. Dr D is eligible for ILR, subject to identity and suitability checks.

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Applicant has completed a continuous qualifying period of 5 years

Under condition 3 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that the applicant is either:

- a relevant EU citizen
- a family member of a relevant EU citizen
- a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen

and both the following apply:

- has completed a continuous qualifying period of 5 years in any (or any combination) of the above categories
- since then no supervening event has occurred

Requirements

You must be satisfied that, at the date of application, the applicant has completed a period of 5 years' continuous residence in the UK as a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen (or in any combination of those categories).

In addition, you must be satisfied that since then no supervening event has occurred, which means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

Evidence to be produced

Automated checks will be undertaken with HMRC and DWP as part of the application process which may provide evidence that the applicant has completed a period of 5 years' continuous residence in the UK. See [automated checks](#) for further information.

Should these checks not provide sufficient evidence of residence in the UK, the applicant will be invited to provide evidence that, when combined with the evidence supplied by the automated HMRC and DWP checks, confirms that they have completed a period of 5 years' continuous residence in the UK – see [Annex A](#).

The applicant must also provide a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of PR in the UK, or since they last completed a period of 5 years' continuous residence in the UK.

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

For guidance on the requirements to be met by a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, see [a family member who has retained the right](#) of residence.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

Scenario 1

Professor E has applied on the basis of being a French citizen who has been living in the UK continuously for the past 8 years. Automated checks from HMRC confirm that he has been working in the UK for 7 years. The data runs up to the month before his application, so it is not possible for him to have been absent for more than 5 consecutive years since then, and there is no evidence of any other supervening event. Professor E is eligible for ILR, subject to identity and suitability checks.

Scenario 2

Mrs F has applied on the basis of being the Brazilian spouse of her Italian husband, and the relationship and relevant identities are confirmed. She claims that both she and her husband have been resident in the UK since 2012. Home Office records show her husband was issued with a document certifying permanent residence in 2017 and automated checks show that Mrs F was employed from 2013-2015. Mrs F provides council tax bills for the period 2015-2018 dated and addressed to both her and her husband. Mrs F is eligible for ILR, subject to suitability checks.

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A relevant EU citizen who has ceased activity

Under condition 4 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that the applicant is:

- a relevant EU citizen who is a person who has ceased activity
- since they did so, no supervening event has occurred

Requirements

You must be satisfied that, at the date of application, the applicant is a person who has ceased activity. Further detail on this is set out below.

In addition, you must be satisfied that since then no supervening event has occurred, which means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1).

Retired

You must be satisfied that, at the date of application, the applicant:

- has terminated activity as a worker or self-employed person in the UK and either:
 - reached the [age of entitlement to a state pension](#) on terminating that activity
 - in the case of a worker, ceased working to take early retirement
- immediately before that termination:

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- was a worker or self-employed person in the UK for at least 12 months
- was continuously resident in the UK for a period of more than 3 years.

The conditions above as to length of residence and of employment do not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EU citizen is the spouse or civil partner of a British citizen.

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence of the applicant's retirement, for example, a relevant HMRC form, letter from employer, pension statements
- evidence of employment in the UK for at least 12 months before retirement in the form of, for example, pay slips or letter from employer
- evidence that they were continuously resident in the UK for more than 3 years before retirement (either from the automated checks with HMRC and DWP or as provided by the applicant)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity

See [Annex A](#) for examples of documents which may be submitted to confirm residence in the UK.

Permanent incapacity

You must be satisfied that, at the date of application, the applicant has:

- stopped being a worker or self-employed person owing to permanent incapacity to work and either:
 - having been continuously resident in the UK for a period of at least the preceding 2 years
 - the incapacity having resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK

The condition above as to length of residence does not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EU citizen is the spouse or civil partner of a British citizen.

Evidence to be produced

Evidence which may be relevant to the requirements above includes either:

- evidence of their permanent incapacity to work, in the form of, for example, a letter from their hospital consultant
- evidence of an accident at work or an occupational disease, in the form of, for example, a letter from a hospital consultant
 - confirmation, in the form of a letter or pension statements, that the occupational disease entitles the applicant to a pension payable in full or in part by an institution in the UK

and:

- evidence (where relevant) that they were continuously resident in the UK for a period of at least the preceding 2 years (either from the automated checks with HMRC and DWP or as provided by the applicant)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity

See [Annex A](#) for examples of documents which may be submitted to confirm residence in the UK.

Worker or self-employed person who has retained a place of residence

You must be satisfied that, at the date of application, the applicant was continuously resident in the UK for a period of at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country. Also, they must have retained a place of residence in the UK to which they return, as a rule, at least once a week.

Being a 'worker' means that there is evidence which satisfies you that the applicant is either:

- a worker as defined in regulation 4(1) of the EEA Regulations
- a person who is no longer working but who continues to be treated as a worker within the meaning of "qualified person" under regulation 6

Being a 'self-employed person' means that there is evidence which satisfies you that the applicant is either:

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- a self-employed person as defined in regulation 4(1) of the EEA Regulations
- a person who is no longer in self-employment but who continues to be treated as a self-employed person within the meaning of “qualified person” under regulation 6

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence of continuous residence in the UK for a period of at least 3 years (either from the automated checks with HMRC and DWP or as provided by the applicant)
- evidence of having been a worker or self-employed person in the UK for that period of at least 3 years, in the form of, for example, pay slips or letter from employer
- evidence of becoming a worker or self-employed person in another EU country immediately after leaving the UK, in the form of, for example, pay slips or letter from employer
- evidence of retaining a place of residence in the UK to which the applicant returns, for example, utility bills which shows:
 - evidence that the applicant returns to this place, as a rule, at least once a week, for example travel tickets
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the requirements in one of the above sub-sections, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the requirements in one of the above sub-sections, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years’ limited leave to remain (LTR) under condition 1 in rule EU14.

Scenario 1

Mr G, a 68 year old French citizen, has applied on the basis of being a retired worker since 2016. Automated checks from HMRC show that he was in

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employment in the UK for 3 years before retiring, and statements provided confirm he has been in receipt of a pension since 2016. Mr G is eligible for ILR, subject to identity and suitability checks.

Scenario 2

Ms H, a German citizen, has been living in the UK since 2014. She worked from 2014-2017 before she was injured in an industrial accident and was unable to continue work as a result. A letter from her hospital consultant confirms she is no longer able to work in any capacity, automated checks from HMRC confirm her period of work as claimed and she has confirmed via self-declaration that she has not left the UK since and there is no evidence to suggest otherwise. Ms H is eligible for ILR, subject to identity and suitability checks.

Scenario 3

Professor J, a Greek citizen, has applied on the basis of being a worker with a retained place of residence in the UK. She claims that she lived in the UK from 2012-2016 and has since been working in the Czech Republic whilst returning to her house in the UK at least once a week.

The automated checks from HMRC show that she was employed in the UK for the period claimed, and she has provided payslips and bank statements evidencing her employment in the Czech Republic. Professor J has also provided utility bills for her address in the UK from 2016 to the date of application and flight history showing that she returns to the UK every weekend. Professor J is eligible for ILR, subject to identity and suitability checks.

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Family member of a relevant EU citizen who is a person who has ceased activity

Under condition 5 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that all of the following apply:

- the applicant is a family member of a relevant EU citizen who is a person who has ceased activity
- the applicant was such a family member at the point the EU citizen became a person who has ceased activity
- the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it)
- since the relevant EU citizen became a person who has ceased activity, no supervening event has occurred

Requirements

You must be satisfied that, at the date of application:

- the applicant is a family member of a relevant EU citizen, and was so at the point the relevant EU citizen became a person who has ceased activity
- the relevant EU citizen is a person who has ceased activity
- the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it)

In addition, you must be satisfied that since the relevant EU citizen became a person who has ceased activity, no supervening event has occurred, which means that, at the date of application both:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:

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- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that the relevant EU citizen is a person who has ceased activity and that the applicant was their family member when they did so - for further information on ceased activity see [ceased activity](#) above
- evidence that the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it), for example, status previously issued or current application reference number
- a self-declaration that the applicant has not been absent from the UK for a period of more than 5 consecutive years since the relevant EU citizen became a person who has ceased activity

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

Scenario 1

Mrs K, a 60 year old Chinese citizen, has applied on the basis of being the spouse of an EU citizen who ceased activity in 2015. She has provided her marriage certificate and husband's passport, and documents that show that her husband was in employment for 3 years before retiring and since 2015 he has been in receipt of a pension. No evidence of a supervening event is present. Mrs K is eligible for ILR, subject to identity and suitability checks.

Scenario 2

Mr L, a Mexican citizen, has applied at the same time as his wife, a Swedish citizen, who ceased activity in 2016. A marriage certificate has been provided to confirm the relationship and casework action on Mrs L's application has resulted in a grant of ILR as an EU citizen who has ceased activity. No evidence of a supervening event is present. Mr L is eligible for ILR, subject to identity and suitability checks.

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Family member of a relevant EU citizen who has died

Under condition 6 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that:

- the applicant is a family member of a relevant EU citizen who has died and the relevant EU citizen was in the UK as a worker or self-employed person at the time of their death
- the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before dying, or the death was the result of an accident at work or an occupational disease
- the applicant was resident in the UK with the relevant EU citizen immediately before their death and since then no supervening event has occurred

Requirements

You must be satisfied that, at the date of application:

- the applicant is a family member of a relevant EU citizen who has died, and the applicant was resident in the UK with the relevant EU citizen immediately before their death
- the relevant EU citizen was resident in the UK as a worker or self-employed person at the time of their death
- the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before dying, or the death was the result of an accident at work or an occupational disease

In addition, you must be satisfied that since the death of the relevant EU citizen, no supervening event has occurred, which means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations

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- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that that the applicant was resident in the UK with the relevant EU citizen when they died
- evidence that the relevant EU citizen was resident in the UK as a worker or self-employed person at the time of their death
- evidence that the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before their death, or the death was the result of an accident at work or an occupational disease (such as a letter from a qualified medical professional, for example a hospital consultant or GP)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since the relevant EU citizen died

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

Scenario 1

Mrs M is a Sri Lankan citizen, who was married to a Danish citizen. Both were employed together in the UK for 10 years and she claims they continuously resided together in the UK since they were married 13 years ago. After a short illness, Mr M passed away in 2016. Mrs M has provided a marriage certificate and Mr M's passport and death certificate. Mrs M has also provided Mr M's pay slips which confirm that he was in employment immediately before his death in 2016. There is no evidence of a supervening event. Mrs M is eligible for ILR, subject to identity and suitability checks.

Scenario 2

Dr N is a Brazilian citizen who was married to Mr N, a French citizen in the UK who had been working for 6 years. Mr N has died after contracting an occupational disease; this is confirmed by both his death certificate and a hospital consultant's letter. Dr N has provided a marriage certificate and Mr N's French ID card. P60s confirm Mr N's employment as claimed and there is no evidence of a supervening event. Dr N is eligible for ILR, subject to identity and suitability checks.

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Child under the age of 21 of a relevant EU citizen or of their spouse or civil partner

Under condition 7 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that:

- the applicant is a child under the age of 21 of a relevant EU citizen or of their [spouse](#) or [civil partner](#) and the relevant EU citizen (or the spouse or civil partner) has been or is being granted indefinite leave to remain under the scheme
- where the child's parent is an Irish citizen who has not made a valid application under the scheme, they would be granted that leave if they made such an application

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant is the child of the relevant EU citizen, or of the spouse or civil partner, for example, a birth certificate and a marriage certificate if applicable
- evidence that the relevant EU citizen, or the spouse or civil partner, has been or is being granted ILR under the scheme
- if the child's parent is an Irish citizen who has not made a valid application, evidence they would be granted ILR if they made such an application, for example, their valid passport, national identity card or full birth certificate from Ireland and evidence of 5 years' continuous residence in the UK, with no subsequent supervening event

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

Scenario 1

Miss O, a 12 year old Argentinian citizen, has applied as the daughter of her Portuguese mother, Mrs O. She has provided her birth certificate which confirms her relationship to Mrs O and Mrs O's reference number confirming a grant of ILR under the scheme, which you have confirmed by checking Home Office records. Miss O is eligible for ILR, subject to identity and suitability checks.

Scenario 2

Mr P, a 16 year old Ecuadorian citizen, has applied as the son of Ms P, who is in a civil partnership with Ms Q, a Latvian citizen. A birth certificate and civil partnership certificate have been produced to confirm both relationships are as claimed and Ms Q's passport confirms that she is a Latvian citizen.

A reference number provided confirms that Ms P has been granted ILR under the scheme. Mr P is eligible for ILR in line, subject to identity and suitability checks.

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Consideration of applications: 5 years' limited leave to remain (LTR)

An applicant who has made a valid application but does not meet the eligibility requirements for indefinite leave to remain (ILR) under rule EU11 of Appendix EU will be eligible for 5 years' limited leave to remain (LTR) under condition 1 of rule EU14 where you are satisfied including, where applicable, by required evidence of family relationship, that at the date of application both:

- the applicant is a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen
- the applicant is not eligible for ILR solely because they have been continuously resident in the UK for less than 5 years

Evidence to be produced

Automated checks will be undertaken with HMRC and DWP which may provide evidence that the applicant has completed a continuous period of residence in the UK of less than 5 years. See [automated checks](#) for further information.

Should these checks not provide any evidence of residence in the UK, the applicant must be invited to provide evidence that confirms that they have completed a period of continuous residence in the UK. See [Annex A](#) for examples of the forms of evidence that they may provide to do so.

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, they will be eligible for LTR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, the application must be refused as ineligible. For further information, please see [refusals](#) section below.

Official – sensitive: start of section

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Consideration of applications: eligibility

Where an applicant needs to provide more information or evidence than the application contains of their eligibility for indefinite leave to remain or limited leave to remain under Appendix EU, you must attempt to contact the applicant (as set out in more detail below) and give them a reasonable opportunity in which to provide this before you make a decision on their application.

Where, as part of the application, the applicant has specified a preference for a specific method of contact, this must be the first method of contact attempted.

You must, subject to the next two paragraphs, make three attempts in total over a minimum of three weeks to contact the applicant by at least two different methods (where the applicant has provided the relevant contact details) – from, ordinarily, telephone call, text, email, letter – in order to give them a reasonable opportunity in which to provide more information or evidence.

You can exceed that number of attempts at contact where, following consultation with your senior caseworker, you are satisfied that there is good reason to do so in the particular circumstances of the case. All attempts at contact must be recorded.

If the applicant makes clear that they are unable or unwilling to provide more information or evidence, you must decide the application on the basis of all the information and evidence before you.

‘A reasonable opportunity in which to provide more information or evidence’ means, subject to the next paragraph, 14 calendar days, from the date of the attempted contact (or the date on which you discussed the matter with the applicant), in which to provide the information or evidence specified in your request (or which you discussed with the applicant). Where the attempted contact is by letter sent by first-class post, you may assume delivery on the second business day after the date of postage.

You may provide longer than 14 calendar days where, following consultation with your senior caseworker, you are satisfied that there is good reason to do so in the particular circumstances of the case.

Once the final deadline you have given the applicant to provide more information or evidence (or to contact you to discuss this) has passed, you must consider and decide the application on the basis of all the information and evidence before you.

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Throughout this process of engagement with the applicant, you may exercise discretion in their favour where appropriate, to minimise administrative burdens.

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Refusals

There is no basis to refuse a valid application under the scheme beyond the eligibility and suitability conditions set out in Appendix EU, which are consistent with the draft Withdrawal Agreement.

A valid application under Appendix EU which does not meet the eligibility requirements for indefinite leave to remain or limited leave to remain will be refused under rule EU6.

If you require further information you must discuss the case with your senior caseworker who may refer to the European Migration Policy Team for further advice.

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Annex A

Evidence required to establish residence in the UK

Many applicants will have their residence confirmed by automated checks of HMRC and DWP data. However, where those checks indicate that an applicant who does not hold a permanent residence document has been continuously resident in the UK for a period of less than 5 years – or do not indicate that the applicant has been and remains continuously resident here – the applicant will be able to upload documentary evidence to satisfy you that they are continuously resident here and, where appropriate, that they have been so for at least 5 years or that they are in one of the categories eligible for ILR with less than 5 years' continuous residence.

This Annex provides non-exhaustive lists of the type of documentary evidence which the applicant will be able to provide. The guidance below is not prescriptive or definitive. Some applicants may lack documentary evidence in their own name for various reasons; you must work flexibly with applicants to help them evidence their continuous residence in the UK by the best means available to them.

The applicant may submit several types of evidence to cover their claimed period of continuous residence. For example, a dated and signed letter from an employer confirming a 12 month period of UK-based employment which has been undertaken, and confirmation of the employer's status, may be submitted as evidence of residence in the relevant 12 month period and bank statements may be submitted as evidence of residence in the subsequent 12 month period.

Preferred evidence

The documents listed below are preferred evidence because a single document may cover a significant period. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers:

- an annual bank statement or an account summary covering a 12 month period, showing payments received or spending in the UK in at least six months of that 12 month period
- annual business accounts of a self-employed person
- a dated and signed letter from an employer, confirming the duration of a period of UK-based employment which has been undertaken, and confirmation of the employer's status (such as registration with HMRC or Companies House) - this will be considered evidence of residence for the period of that employment

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- a P60 for a 12 month period (you may request additional evidence to confirm that the person has been resident in the UK for at least 6 months of that period)
- a P45 confirming the duration of a period of employment which has ceased - this will be considered evidence of residence for the period of that employment
- a dated and signed letter from an accredited organisation in the UK confirming physical attendance at a course and its duration, or confirming enrolment on a course accompanied by dated and signed evidence of completion (such as a qualification certificate) - this will be treated as evidence of residence for the duration of the course
- a dated and signed letter from a registered care home confirming the period of residence in the home - this will be treated as evidence of residence for that period
- a dated, addressed invoice from an accredited organisation for school, college or university fees for education requiring physical attendance in the UK, which includes the name of the student, and accompanying evidence of payment - this will be treated as evidence of residence for the relevant academic term(s) or year
- documentation issued by the student finance body for England, Wales, Scotland or Northern Ireland or the Student Loans Company that shows a UK address, such as an entitlement notification or repayment statement - this will be treated as evidence of residence for the relevant academic term(s) or year
- a residential mortgage statement or tenancy agreement, and accompanying evidence of the mortgage or rent being paid (for example, confirmation from the lender or landlord), will be treated as evidence of residence for the period covered by the statement or agreement
- a dated, addressed council tax bill will be treated as evidence of residence for the period covered by the bill
- evidence of an employer making pension contributions will be treated as evidence of residence for the period covered by the contributions where the employment requires physical presence in the UK

Alternative evidence

Because the documents listed below cover a shorter period, the applicant may need to submit more of them to evidence that they meet the residence

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requirement. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers:

- a dated bank statement (other than an annual statement, as above) showing payments received or spending in the UK - this will be treated as evidence of residence for the period covered by the bank statement
- a dated payslip for a UK-based job will be treated as evidence of residence for the period covered by that payslip
- a dated invoice for work you have done in the UK, and accompanying evidence of payment - this will be treated as evidence of residence for the month in which the invoice is dated
- a dated, UK-addressed domestic utility bill featuring the applicant's name will be treated as evidence of residence for the period covered by the bill
- a dated, UK-addressed domestic bill or contract for a mobile or fixed line telephone or for a TV or internet service featuring the applicant's name will be treated as evidence of residence for the period covered by the bill or contract
- a dated letter from a UK GP or other healthcare professional confirming the applicant's attendance at appointment(s), or a card issued by the healthcare professional confirming those appointment(s) - this will be treated as evidence of residence for the period covered by the appointments (or for the month in which a single appointment occurred)
- a dated letter, or benefit claims made to, a UK government department, another UK public body or a UK charity confirming the applicant's physical interaction with them, for example Job Centre Plus or Citizens' Advice or a registration card or certificate issued under the Worker Registration Scheme - this will be treated as evidence of residence for the month in which it is dated, unless it explicitly confirms interactions over a longer period
- other dated, UK-addressed domestic bills, for example, for insurance, veterinary bills or home services/repairs, featuring the applicant's name and accompanying evidence of payment will be treated as evidence of residence for the month in which the bill is dated
- a passport stamp confirming entry at the UK border - this will be treated as evidence of residence for the month of entry
- a used travel ticket confirming previous inbound travel to the UK - this will be treated as evidence of residence for the month of entry

Unacceptable evidence

The documents listed below are not from an official or other impartial source, or are not accessible by Home Office caseworkers, and so are not acceptable as evidence of continuous residence for the scheme and should not be provided:

- character references or testimonials from family and friends
- photographs of a wedding or other special occasion
- greetings cards or postcards sent or received
- a personal scrapbook or similar

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