EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members

Version 12.0
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About this guidance

This guidance tells you how, from 6 April 2021, to consider applications made under the EU Settlement Scheme, contained in Appendix EU to the Immigration Rules.

You must consider applications in line with the Immigration Rules and guidance in force at the date of decision on the application, subject to any transitional provisions made in respect of the rules and referred to in the guidance.

The EU Settlement Scheme provides a basis, consistent with the Withdrawal Agreement with the European Union reached on 17 October 2019 and with the citizens’ rights agreements reached with the other European Economic Area (EEA) countries and Switzerland, for resident EEA and Swiss citizens and their family members to apply for the UK immigration status which they will require in order to remain here. Those agreements now have effect in UK law through the European Union (Withdrawal Agreement) Act 2020.

The immigration status granted under the EU Settlement Scheme is either indefinite leave to enter (ILE) (where the application is made outside the UK) or indefinite leave to remain (ILR) (where the application is made within the UK) – also referred to for the purposes of the scheme as ‘settled status’ – or 5 years’ limited leave to enter (LTE) (where the application is made outside the UK) or 5 years’ limited leave to remain (LTR) (where the application is made within the UK) – 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 be referred to as ‘the scheme’ for the purposes of this guidance.

Where this guidance refers to the ‘specified date’, this means (as defined in Annex 1 to Appendix EU and where the applicant is not a family member of a qualifying British citizen to whom a different date applies) 11pm Greenwich Mean Time (GMT) on 31 December 2020.
For guidance on applications from the family member of a qualifying British citizen, including on the meaning in that context of 'specified date' and 'required date', see EU Settlement Scheme: Family member of qualifying British citizen.

Where this guidance refers to the ‘EEA Regulations’, it means (as defined in Annex 1 to Appendix EU):

- (where relevant to something done before the specified date) the Immigration (European Economic Area) Regulations 2016 (as they have effect immediately before that date)
- (where relevant to something done after the specified date and before 1 July 2021) the Immigration (European Economic Area) Regulations 2016 (as, despite the revocation of those Regulations, they continue to have effect, with specified modifications, by virtue of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020
- (where relevant to something done on or after 1 July 2021) the Immigration (European Economic Area) Regulations 2016 (as they had effect immediately before they were revoked and, where the context requires it, on the basis that those Regulations had not been revoked)

Where this guidance refers to ‘immigration status in the UK or the Islands’, this means (as defined in Annex 1 to Appendix EU):

- indefinite or limited leave to enter or remain in the UK or the Islands under or outside the relevant Immigration Rules
- exemption from immigration control
- the entitlement to reside in the UK or the right of permanent residence in the UK under regulations 13 to 15 of the EEA Regulations
- the entitlement to reside in the Islands or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man

**Application process**

Applicants must apply by using the required application process.

Other than for proof of their identity and nationality or entitlement to apply from outside the UK, 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.

Guidance for EUSS applicants in or outside the UK who have been affected by restrictions associated with coronavirus (COVID-19) is available at: Coronavirus (COVID-19): EU Settlement Scheme – guidance for applicants.
Please also consult operational instructions on any measures in place as a result of coronavirus (COVID-19), in conjunction with that guidance and this.

**Cost of application**

There is no fee for an application under the EU Settlement Scheme. Any person who previously paid an application fee during the private or public beta test phases of the scheme has had this refunded.

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

Where the application is made within the UK, a non-EEA citizen applicant required to enrol their biometrics may be required to pay a fee to a commercial partner to do so, depending on the location of the centre they choose to use (several across the UK are free to use).

**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 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.

Although the duty in section 55 only applies to children in the UK, the statutory guidance – Every Child Matters – Change for Children – provides guidance on the extent to which the spirit of the duty should be applied to children overseas. You must adhere to the spirit of the duty and make enquiries when you have reason to suspect that a child may be in need of protection or safeguarding, or presents welfare needs that require attention. In some instances, international or local agreements are in place that permit or require children to be referred to the authorities of other countries and you are to abide by these and work with local agencies in order to develop arrangements that protect children and reduce the risk of trafficking and exploitation.

Further guidance can be found in paragraphs 2.34 to 2.36 of the statutory guidance.

For further guidance on how to deal with applications concerning children see: Applications in respect of children.
Contacts

If you have any questions about the 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 & Citizens’ Rights Unit.

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 you can email the Guidance Rules and Forms Team.

Publication

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

- **version 12.0**
- published for Home Office staff on **21 May 2021**

Changes from last version of this guidance

Updates to the tables setting out the countries that have extended the validity of their identity documents in response to the COVID-19 situation, which documents the extensions apply to, and the impact on the expiry date.

Related content

Contents

Related external links

- Appendix EU to the Immigration Rules
- Immigration (European Economic Area) Regulations 2016
- Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020
- Guidance for EUSS applicants in or outside the UK who have been affected by restrictions associated with coronavirus (COVID-19)
- Statement of Changes in Immigration Rules: HC 1248
- Section 55 of the Borders, Citizenship and Immigration Act 2009
- Every Child Matters – Change for Children
Who can apply

The EU Settlement Scheme was launched at 7.00am on 30 March 2019, after several test phases.

Applications from outside the UK under the EU Settlement Scheme have been possible since 7:00am on 9 April 2019.

Applications under the EU Settlement Scheme by a ‘person with a Zambrano right to reside’ as defined in Annex 1 to Appendix EU have been possible since 1 May 2019.

Applications under the EU Settlement Scheme by family members of a relevant person of Northern Ireland as defined in Annex 1 to Appendix EU have been possible since 24 August 2020.

Applications under the EU Settlement Scheme by joining family members of a relevant sponsor as defined in Annex 1 to Appendix EU have been possible since 11:00pm on 31 December 2020.

A person who is exempt from immigration control, for example foreign diplomats, consular staff and members of certain international organisations, cannot be granted leave to enter or remain under the Immigration Act 1971 and therefore, if they make an application under the EU Settlement Scheme, this must be treated as void. They will be able to apply to the scheme, provided they do so by the ‘required date’, once they cease to be exempt from immigration control, and in the meantime their non-exempt family members are able to apply.

A person who is a British citizen, including a British citizen with dual nationality, has the right of abode in the UK, cannot be granted leave to enter or remain under the Immigration Act 1971 and therefore, if they make an application under the EU Settlement Scheme, this must be treated as void.

Certain current Commonwealth citizens also have the right of abode in the UK and cannot be granted leave to enter or remain under the Immigration Act 1971. Therefore, if they make an application under the EU Settlement Scheme, this must be treated as void. Further information on the right of abode in the UK can be found at right of abode guidance.

A person who holds valid indefinite leave to enter or indefinite leave to remain granted under Appendix EU may not be granted indefinite leave to enter or indefinite leave to remain again under Appendix EU. Therefore, if they make an application under the EU Settlement Scheme, this must be treated as void.

EEA citizen

An ‘EEA citizen’ is defined in Annex 1 to Appendix EU as a person who is (and, throughout any continuous qualifying period relied upon, was) either:
• under sub-paragraph (a)(i), a national of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland, and who, under sub-paragraph (a)(ii), is not also a British citizen
• under sub-paragraph (b), a relevant naturalised British citizen (see Relevant naturalised British citizen)
• under sub-paragraph (c), a national of a country listed in sub-paragraph (a)(i) and (where the applicant meets the criteria in paragraph 9 of Schedule 6 to the EEA Regulations as the family member (“F”) to whom that paragraph refers) a British citizen within the meaning of the person (P) to whom that paragraph refers (see Family member of a dual British and EEA citizen (McCarthy cases))
• under sub-paragraph (d), a relevant person of Northern Ireland (see Family members of the people of Northern Ireland)

**Relevant EEA citizen**

Where the date of application is before 1 July 2021, a ‘relevant EEA citizen’ is defined in Annex 1 to Appendix EU as either:

• under sub-paragraph (a), an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) resident in the UK and Islands for a continuous qualifying period which began before the specified date
• under sub-paragraph (b), an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands as described above:
  o has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
  o would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• under sub-paragraph (c), where the applicant is a family member of a relevant naturalised British citizen, an EEA citizen in accordance with sub-paragraph (b) of the definition of EEA citizen in Annex 1 to Appendix EU
• under sub-paragraph (d), where the applicant is the family member (“F”) to whom paragraph 9 of Schedule 6 to the EEA Regulations refers and meets the criteria as F in that paragraph, an EEA citizen in accordance with sub-paragraph (c) of the definition in Annex 1 to Appendix EU, and either:
  o resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o who, having been resident in the UK and Islands as described above, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• under sub-paragraph (e), where the applicant is a family member of a relevant person of Northern Ireland, an EEA citizen in accordance with sub-paragraph (d) of the definition in Annex 1 to Appendix EU and either:
  o resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o who, having been resident in the UK and Islands as described above, and where they are a relevant person of Northern Ireland in accordance with sub-paragraph (a)(ii) of the definition in Annex 1 to Appendix EU (i.e. an Irish citizen), either has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  o who, having been resident in the UK and Islands as described above, would, but for the fact (where they are a relevant person of Northern Ireland in accordance with sub-paragraph (a)(i) or (a)(iii) of the definition in Annex 1 to Appendix EU, i.e. a British citizen or a British citizen and an Irish citizen) that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• under sub paragraph (f), where the applicant is the family member of a person exempt from immigration control, that person is either:
  o resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o a person who, having been resident in the UK and Islands as described above, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• under sub-paragraph (g), where the applicant is their family member, a frontier worker

For further guidance on sub-paragraph (c) please see: Relevant naturalised British citizen.

For further guidance on sub-paragraph (d) please see: Family member of a dual British and EEA citizen (McCarthy cases).

For further guidance on sub-paragraph (e) please see: Family members of the people of Northern Ireland.

For further guidance on sub-paragraph (f) please see: Person exempt from immigration control.

For further guidance on sub-paragraph (g) please see: Frontier worker.
Where this guidance refers to the definition of ‘relevant EEA citizen’ in Annex 1 to Appendix EU, it is to the definition applicable to applications made before 1 July 2021. This guidance will be updated in due course to refer also to the definition applicable to applications made on or after that date.

**Islands**

‘The Islands’ are defined in Annex 1 to Appendix EU as:

- the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man

‘The UK and Islands’ is defined in Annex 1 to Appendix EU as:

- the UK and the Islands taken together

**Irish citizen**

An ‘Irish citizen’ is defined in Annex 1 to Appendix EU as a person who is an Irish citizen as a matter of Irish law.

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 enter or remain in the UK) will need to make an application for status under the EU Settlement Scheme, and they can do so whether or not the Irish citizen has done so.

**Non-EEA citizen**

A non-EEA citizen is defined in Annex 1 to Appendix EU as a person who is not an EEA citizen and is not a British citizen. To apply from outside the UK, they will need to provide the ‘required proof of entitlement to apply from outside the UK’.

**Family member of a relevant EEA citizen**

As set out in the definition in Annex 1 to Appendix EU of ‘family member of a relevant EEA citizen’, the categories of family member of a relevant EEA citizen who can apply are:

- **spouse**
- **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, in some cases, of the spouse or civil partner)

A person can also apply:

• on the basis of retaining the right of residence: see a family member who has retained the right of residence
• as a person with a derivative right to reside
• as a person with a Zambrano right to reside
• as a family member of a qualifying British citizen

To apply under the family member of a relevant EEA citizen provisions, an applicant must have been resident by 11pm GMT on 31 December 2020 on a basis which met the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU and thereafter not have broken the continuity of their residence.

Joining family member of a relevant sponsor

As set out in the definition in Annex 1 to Appendix EU of ‘joining family member of a relevant sponsor’, the categories of joining family member of a relevant sponsor who can apply are:

• spouse
• civil partner
• specified spouse or civil partner of a Swiss citizen
• 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)

An applicant needs to meet particular criteria to qualify under the joining family member of a relevant sponsor provisions. See Who can apply as a joining family member of a relevant sponsor for further detail. Their relationship with the relevant sponsor needs to have existed by 11pm GMT on 31 December 2020, unless they are a child, in certain circumstances, of the relevant sponsor (or of the relevant sponsor’s spouse or civil partner) or the specified spouse or civil partner of a Swiss citizen.

Relevant naturalised British citizen

A family member of a relevant EEA citizen (or a joining family member of a relevant sponsor) can also apply where the relevant EEA citizen (or relevant sponsor) is a dual British and EEA citizen who exercised free movement rights in the UK prior to the acquisition of British citizenship and who retained their EEA nationality of origin after acquiring British citizenship. This reflects the Court of Justice of the European Union (CJEU) judgment in Lounes.
Such a ‘relevant naturalised British citizen’ is defined in Annex 1 to Appendix EU as either:

- under sub-paragraph (a), an EEA citizen (in accordance with sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU) resident in the UK and Islands for a continuous qualifying period which began before the specified date
- under sub-paragraph (b), an EEA citizen (in accordance with sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU) who, having been resident in the UK and Islands as described above, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

And, in addition, in either case the person is also both:

- under sub-paragraph (c), comes within paragraph (b) of the definition of “EEA national” in regulation 2(1) of the EEA Regulations
- under sub-paragraph (d), meets the criteria contained in regulation 9A(2) or 9A(3) as the dual national (“DN”) to whom those provisions refer (regardless of whether, save in conditions 5 and 6 in the table in paragraph EU11 of Appendix EU and in conditions 2 and 3 in the table in paragraph EU11A, they remained a qualified person under regulation 6 of the EEA Regulations after they acquired British citizenship)

To make a valid application, a family member of a relevant naturalised British citizen must apply using the relevant paper application form.

In considering such an application, before assessing the family relationship, you must first be satisfied that the person on whom the applicant is relying as being a relevant EEA citizen is a relevant naturalised British citizen in accordance with the definition in Annex 1 to Appendix EU.

You must be satisfied that that person:

- has acquired British citizenship, for example, by the provision of a valid UK passport or naturalisation certificate
- was an EEA citizen prior to also becoming a British citizen, for example, by the provision of an EEA passport or national identity card issued before they naturalised as a British citizen
- has retained their EEA nationality, for example, by the provision of a valid EEA passport or national identity card

And, in respect of the criteria in regulation 9A(2) or 9A(3) of the EEA Regulations, you must be satisfied that the person either:

- was a ‘qualified person’ under regulation 6(1) of the EEA Regulations at the time they acquired British citizenship and has not lost the status of qualified
person since they acquired British citizenship (see [EEA Nationals: Qualified Persons](#))

- had acquired a right of permanent residence in the UK at the time they acquired British citizenship (see ‘Right to permanent residence for qualified persons section’ in [EEA Nationals: Qualified Persons](#))

If the applicant does not provide sufficient evidence that the person is a naturalised British citizen, you must check other information available, for example, information or a scanned copy of the person’s British passport held on Home Office records, before you contact the applicant to request they provide further evidence.

Where you are satisfied that the person is a relevant naturalised British citizen, you must then consider the application as if it were from the family member of a relevant EEA citizen. See: [Assessing family relationship](#).

**Family member of a dual British and EEA citizen (McCarthy cases)**

The [CJEU judgment in McCarthy](#) in 2011 found that a person who holds the nationality of the host EEA Member State (regardless of whether or not they hold dual nationality with another EEA Member State) and has never exercised their right of free movement does not benefit, and nor do their family members, from rights of residence under the Free Movement Directive. Transitional provisions were made in 2012 – which are now reflected in paragraph 9 of Schedule 6 to the EEA Regulations – to enable certain family members affected by the judgment to retain or obtain a residence document enabling them to remain in the UK.

They will be either:

- a person who on 16 July 2012 had the right of permanent residence in the UK under the EEA Regulations 2006
- a person residing in the UK on 16 July 2012 as the family member of a dual British and EEA citizen, and who held a valid registration certificate or residence card confirming this right on 16 October 2012 - they continue to be treated under the EEA Regulations as the family member of an EEA citizen for as long as they continue to be the family member of that dual national - this also applies where a person had a right of residence on this basis on 16 July 2012 and had submitted an application for a document confirming this right on or before 16 October 2012 which had not been determined by that date (or which had been refused and was then successfully appealed): they continue to have such a right where a document was subsequently issued on the basis of that application (or that appeal)
- a person who submitted an application for an EEA family permit as the family member of a dual British and EEA citizen before 16 July 2012, where the application resulted in an EEA family permit being issued (including where this document was issued following a successful appeal) and the person travelled to the UK within the 6 month validity period of that EEA family permit - they continue to be treated under the EEA Regulations as the family member of an
EEA citizen for as long as they continue to be the family member of that dual national - they do not need to have applied for further confirmation of a right of residence in the UK.

By virtue of sub-paragraph (d) of the definition of ‘relevant EEA citizen’ in Annex 1 to Appendix EU (and of sub-paragraph (c)(ii) of the definition there of ‘EEA citizen’), such a person may be eligible for settled status or pre-settled status under Appendix EU as the family member of a relevant EEA citizen, where the other relevant requirements of that category are met.

Relevant person of Northern Ireland

A family member of a relevant EEA citizen (or a joining family member of a relevant sponsor) can also apply where the relevant EEA citizen (or relevant sponsor) is a relevant person of Northern Ireland (as defined in Annex 1 to Appendix EU).

A ‘relevant person of Northern Ireland’ is a person who both:

- is either:
  - a British citizen
  - an Irish citizen
  - a British citizen and an Irish citizen
- was born in Northern Ireland and, at the time of the person’s birth, at least one of their parents was either:
  - a British citizen
  - an Irish citizen
  - a British citizen and an Irish citizen
  - otherwise entitled to reside in Northern Ireland without any restriction on their period of residence

Person exempt from immigration control

A ‘person exempt from immigration control’ is defined in Annex 1 to Appendix EU as a person who is:

- a national of an EEA country or Switzerland
- not a British citizen
- exempt from immigration control in accordance with section 8(2), (3) or (4) of the Immigration Act 1971

They will be able to apply, provided they do so by the ‘required date’, once they cease to be exempt from immigration control, where they meet the relevant criteria. In the meantime, their relevant non-exempt family members are able to apply, either under the family member of a relevant EEA citizen provisions (if they were resident by 11pm GMT on 31 December 2020 on a basis which met the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU and thereafter have not have broken the continuity of their residence) or as a joining family member.
See Persons exempt from control for further guidance.

**Frontier worker**

A family member of a relevant EEA citizen (or a joining family member of a relevant sponsor) can also apply where the relevant EEA citizen (or relevant sponsor) is a frontier worker (as defined in Annex 1 to Appendix EU).

A frontier worker is a person who:

- is a national of an EEA country or Switzerland
- is not a British citizen
- satisfies the Secretary of State by relevant evidence of this that they fulfil the relevant conditions of being a frontier worker set out in the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020, and that they have done so continuously since the specified date
- has not been (and is not to be) refused admission to, or removed from, the UK by virtue of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020, and is not subject to a relevant restriction decision as defined by regulation 2 of those Regulations

See Frontier worker permit scheme for guidance about how to consider whether a person qualifies for a frontier worker permit issued under the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020.

**Relevant document**

Where this guidance makes reference to a ‘relevant document’ it means (as defined in Annex 1 to Appendix EU) either:

- under sub-paragraph (a)(i)(aa), a family permit, registration certificate, residence card, document certifying permanent residence, permanent residence card or derivative residence card issued by the UK under the EEA Regulations on the basis of an application made under the EEA Regulations before the specified date or, in the case of a family permit (where the applicant is not a dependent relative), before 1 July 2021
- under sub-paragraph (a)(i)(bb) (where the applicant is a family member of a relevant person of Northern Ireland and is a dependent relative or durable partner), other evidence which satisfies the Secretary of State of the same matters under Appendix EU concerning the relationship and (where relevant) dependency as a document listed in sub-paragraph (a)(i)(aa); for the purposes of this provision, where the Secretary of State is so satisfied, such evidence is deemed to be the equivalent of a document to which sub-paragraph (a)(i)(aa) refers
- under sub-paragraph (a)(ii), a document or other evidence equivalent to a document to which sub-paragraph (a)(i)(aa) refers, and issued by the Islands under the relevant legislation there evidencing the entitlement to enter or reside in the Islands or the right of permanent residence in the Islands, through
the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man

- under sub-paragraph (a)(iii), a biometric residence card issued by virtue of having been granted limited leave to enter or remain under Appendix EU
- under sub-paragraph (a)(iv), an entry clearance in the form of an EU Settlement Scheme Family Permit granted under Appendix EU (Family Permit)

And, in addition, the document:

- under sub-paragraph (b), was not subsequently revoked, or fell to be so, because the relationship or dependency had never existed or the relationship or (where relevant) dependency had ceased
- under sub-paragraph (c) (subject to sub-paragraphs (d) and (e)), has not expired or otherwise ceased to be effective, or which remained valid for the period of residence relied upon
- under sub-paragraph (d), for the purposes of the reference to ‘relevant document’ in the first sub-paragraph (b) of the definition of ‘dependent relative’ in Annex 1 to Appendix EU, in sub-paragraph (b)(i) of the definition there of ‘durable partner’, and in sub-paragraphs (e) and (f) of the definition there of ‘required evidence of family relationship’, the relevant document may have expired, where both of the following apply:
  - before it expired, the applicant applied for a further relevant document (as described above in relation to sub-paragraph (a)(i)(aa) or (a)(iii)) on the basis of the same family relationship as that on which that earlier relevant document was issued
  - that further relevant document was issued by the date of decision on the application under Appendix EU
- under sub-paragraph (e), the relevant document may have expired where all of the following apply:
  - it is a family permit (as described under sub-paragraph (a)(i)(aa) summarised above) or an equivalent document or other evidence issued by the Islands (as described under sub-paragraph (a)(ii) summarised above)
  - it expired after the specified date and before the required date
  - the applicant arrived in the UK before 1 July 2021 and (unless they are a durable partner or dependent relative) after the specified date

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.

Where Appendix EU requires that a document, card or other evidence is valid (or remained valid for the period of residence relied upon), or has not been cancelled or invalidated or has not ceased to be effective, it does not matter that the person concerned no longer has the right to enter or reside under the EEA Regulations (or under the equivalent provision in the Islands), on which basis the document, card or other evidence was issued, by virtue of the revocation of those Regulations (or equivalent provision in the Islands).
Specified relevant document

Where this guidance makes reference to a 'specified relevant document', it means, as defined in Annex 1 to Appendix EU, either:

- within the meaning of sub-paragraph (a)(i)(aa) of the definition of ‘relevant document’, a residence card, permanent residence card or derivative residence card issued by the UK under the EEA Regulations on the basis of an application made on or after 6 April 2015, which means that it is a biometric residence card
- a biometric residence card issued by virtue of having been granted limited leave to enter or remain under Appendix EU

Family member of a qualifying British citizen

For guidance on a ‘family member of a qualifying British citizen’, see EU Settlement Scheme: family member of a qualifying British citizen. Some sections of that guidance rely on sections of this guidance, which refer accordingly to qualifying British citizens and their family members.

Person with, or who had, a derivative or Zambrano right to reside

For guidance on a ‘person with a derivative right to reside’ (Chen and Ibrahim/Teixeira cases), see EU Settlement Scheme: derivative right to reside.

For guidance on a ‘person with a Zambrano right to reside’, see EU Settlement Scheme: person with a Zambrano right to reside.

A ‘person who had a derivative or Zambrano right to reside’ is defined in Annex 1 to Appendix EU as a person who both:

- was a person with a derivative right to reside or, as the case may be, a person with a Zambrano right to reside, immediately before they became, as the case may be, a relevant EEA citizen, a family member of a relevant EEA citizen, a person with a derivative right to reside, a person with a Zambrano right to reside or a family member of a qualifying British citizen
- has since remained, to the date of application, in any (or any combination) of those categories or as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen or with a qualifying British citizen

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Frontier worker permit scheme caseworker guidance

**Chen and Ibrahim/Teixeira cases**
Making an application: deadline

An application for indefinite leave to enter or remain or limited leave to enter or remain under Appendix EU must be made by the required date.

**Required date**

Where this guidance refers to the ‘required date’, this means the deadline to apply to the EU Settlement Scheme, as follows (as defined in Annex 1 to Appendix EU).

Where the applicant has limited leave to enter or remain granted under Appendix EU: the deadline is before the date of expiry of that leave, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline.

Where the applicant does not have limited leave to enter or remain or indefinite leave to enter or remain granted under Appendix EU:

- in the case of a **joining family member of a relevant sponsor** (where the joining family member is not a specified spouse or civil partner of a Swiss citizen) **and that joining family member arrived in the UK on or after 1 April 2021**: the deadline is within 3 months of the date they arrived in the UK, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline

- in the case of a **specified spouse or civil partner of a Swiss citizen who arrived in the UK on or after 1 April 2021**: the deadline is within 3 months of the date on which they arrived in the UK, and before 1 January 2026, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline

- in the case of a **joining family member of a relevant sponsor and the joining family member is a child who is born or adopted in the UK on or after 1 April 2021** (or who, on or after that date, becomes subject in the UK to one of the guardianship orders or equivalent in sub-paragraphs (a)(iii) to (a)(xi) of the definition of ‘child’ in Annex 1 to Appendix EU): the deadline is within 3 months of the date on which they were born or adopted in the UK (or became subject in the UK to such an order), unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline

- **in all other cases**: the deadline is before 1 July 2021, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline
Reasonable grounds for a late application missing the 30 June 2021 deadline are deemed by Appendix EU to exist in the case of an applicant who:

- has **limited leave to enter or remain** granted under another Part of, or outside, the Immigration Rules, which has not lapsed or been cancelled, curtailed or invalidated, and the date of expiry of that leave is on or after 1 July 2021 – where this occurs, the deadline is before the date of expiry of their leave, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline

- ceases to be **exempt from immigration control** on or after 1 July 2021 – where this occurs, the deadline is within 90 days beginning on the day on which they ceased to be exempt from immigration control, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline

In all cases, as indicated above and set out in more detail below, a person may make a late application to the EU Settlement Scheme based on having reasonable grounds for failing to meet the deadline applicable to them.

### Reasonable grounds for failing to meet the deadline

In line with the Citizens’ Rights Agreements, there remains scope, indefinitely, for a person eligible for status under the EU Settlement Scheme to make a late application to the scheme where, in light of all the circumstances and reasons, there are reasonable grounds for their failure to meet the deadline applicable to them.

Where a person who has failed to meet the deadline applicable to them wishes to apply to the EU Settlement Scheme, they must make a valid application under Appendix EU – online or on the relevant paper application form – and provide information with the application setting out their grounds for failing to meet that deadline.

If an applicant submits an application which is missing any of the components required under rule EU9 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. Should the validity requirements of rule EU9 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(1) of Appendix EU. See [Validity consideration](#).

Where the application under Appendix EU is valid and you are satisfied that there are reasonable grounds for the person’s failure to meet the deadline applicable to them under the EU Settlement Scheme, you must then consider the application.
under the other eligibility requirements and the suitability requirements of Appendix EU and in line with this guidance on the scheme.

In line with the general approach under the EU Settlement Scheme of looking to grant status, rather than for reasons to refuse, you must take a flexible and pragmatic approach to considering, in light of the circumstances of each case, whether there are reasonable grounds for the person’s failure to meet the deadline applicable to them under the EU Settlement Scheme.

The guidance below describes some circumstances in which you may be satisfied that a person has reasonable grounds for missing the deadline applicable to them, but it is not exhaustive and every case must be considered in light of its particular circumstances.

In all cases, the relevant test is whether there are reasonable grounds for the person’s failure to meet the deadline applicable to them under the EU Settlement Scheme. In general, the more time which has elapsed since the deadline applicable to the person under the scheme, the harder it will be for them to satisfy you that, at the date of application, there are reasonable grounds for their failure to meet that deadline. However, there will be exceptions to this, such as where a person establishes, when they first apply to work or study in the UK, that an application to the scheme was not made on their behalf years earlier when they were a child by a parent, guardian or Local Authority.

30 June 2021 is the end of the grace period, during which an EEA citizen lawfully resident in the UK by virtue of the EEA Regulations at the end of the transition period at 11pm on 31 December 2020 (or with the right of permanent residence by virtue of them) and their family members could continue to rely on those EU law rights pending the final outcome of an application (and of any appeal) to the EU Settlement Scheme made by them by 30 June 2021. For the time being, following 30 June 2021, you will give applicants the benefit of any doubt in considering whether, in light of information provided with the application, there are reasonable grounds for their failure to meet the deadline applicable to them under the EU Settlement Scheme, unless this would not be reasonable in light of the particular circumstances of the case. Any change in approach will be reflected in a revision of this guidance.

Where a person has pre-settled status under the EU Settlement Scheme (five years’ limited leave to enter or remain granted under Appendix EU), they can apply for settled status (indefinite leave to enter or remain granted under Appendix EU) as soon as they qualify for this. As mentioned above, the deadline for an application by them for settled status is before the date of expiry of their pre-settled status, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person’s failure to meet that deadline. The first grants of pre-settled status, under the initial test phase of the EU Settlement Scheme which began on 28 August 2018, will expire in Autumn 2023. This guidance will be updated before then and we will send a reminder to those granted pre-settled status to apply for settled status before their pre-settled status expires.
We will also ensure that, where, before the date of expiry of their pre-settled status, a person becomes exempt from immigration control, they are given a reasonable opportunity to apply for settled status once they cease to be exempt from immigration control.

Where a person who has applied late to the EU Settlement Scheme has not provided sufficient information as to the reasonable grounds for their failure to meet the deadline applicable to them, you must attempt, as with other applications under the scheme, to engage with the applicant and give them a reasonable opportunity to submit this, and you will exercise discretion in favour of the applicant where appropriate, to minimise administrative burdens. See Consideration of applications: eligibility.

Where you are satisfied that there are reasonable grounds for the applicant’s failure to meet the deadline applicable to them, then, in line with the Citizens’ Rights Agreements, you must, as with other applications to the EU Settlement Scheme, work with the applicant to help them avoid any errors or omissions that may impact on the application decision. Where necessary, you must attempt, as with other applications under the scheme, to engage with the applicant and give them a reasonable opportunity to submit supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place, and you will exercise discretion in favour of the applicant where appropriate, to minimise administrative burdens. See Consideration of applications: eligibility.

Where a person has already made a late application to the EU Settlement Scheme, with reasonable grounds for failing to meet the deadline applicable to them, and this application has been refused (and any application for administrative review of, or any appeal against, that decision was unsuccessful), then they will not normally be able to establish that there are reasonable grounds for them to make a further late application to the scheme. Whether they can establish such reasonable grounds will, however, depend on the particular circumstances of the case.

Where a person who applies for support under the Voluntary Returns Scheme may be within the scope of the EU Settlement Scheme, their attention will be drawn to it. Where they decide not to apply to the EU Settlement Scheme and decide instead to accept support under the Voluntary Returns Scheme, they will be required to confirm in writing that they have been made aware of the EU Settlement Scheme and they accept that, in taking up publicly funded support to leave the UK, they will not normally have reasonable grounds for making a late application under it. Whether they can establish such reasonable grounds will, however, depend on the particular circumstances of the case.

Where you are not satisfied that there are reasonable grounds for the applicant’s failure to meet the deadline applicable to them under the EU Settlement Scheme, the application will fall to be refused on eligibility grounds under paragraph EU6 of Appendix EU. The refusal letter must explain why you are not satisfied that any grounds given by the applicant for their failure to meet the deadline applicable to them are reasonable, including by reference to any information provided by them. The refusal letter must also explain why you are not satisfied that other eligibility
requirements under Appendix EU are met, where you have assessed this as part of your consideration of the application.

Where an application under Appendix EU is refused on eligibility grounds on the basis that there are not reasonable grounds for the applicant's failure to meet the deadline applicable to them, the applicant may seek an administrative review of that decision, or appeal against it. See Administrative reviews and Appeals.

Encountered by Immigration Enforcement

From 1 July 2021, where a person without status under the EU Settlement Scheme is encountered by Immigration Enforcement (or referred to them, e.g. by a Local Authority), the officer will consider, on the basis of the information and evidence available to them, whether the person is either:

- an EEA citizen and appears to have been resident in the UK before the end of the transition period at 11pm on 31 December 2020
- the family member of such an EEA citizen and appears to have been resident in the UK as such before the end of the transition period

and may therefore have been eligible for status under the EU Settlement Scheme, as an EEA citizen or as their family member, had they made an application under Appendix EU by 30 June 2021.

Where it appears to the officer that this is the case, they will provide the person with a written notice giving them an opportunity to make a valid application under Appendix EU, normally within 28 days of the date of the written notice. The officer will not consider whether, if the person is within the scope of the EU Settlement Scheme, there are reasonable grounds for their failure to meet the deadline applicable to them under it; you will consider this if the person then makes an application under the scheme.

This notice must be recorded on the relevant Home Office IT systems and, during the period given by it for an application to be made by the person to the EU Settlement Scheme, no immigration enforcement action for being in the UK without leave will normally be taken in respect of them.

Where the person does not appear to have been resident in the UK before the end of the transition period, they may still have been eligible for status under the EU Settlement Scheme, as the family member of an EEA citizen who was resident in the UK by then, had they made an application under Appendix EU either:

- by 30 June 2021 – if they arrived in the UK before 1 April 2021
- within 3 months of their arrival in the UK – if they arrived in the UK on or after 1 April 2021
Where it appears to the officer that this is the case, they will provide the person with a written notice giving them an opportunity to make a valid application under Appendix EU, normally within 28 days of the date of the written notice. The officer will not consider whether, if the person is within the scope of the EU Settlement Scheme, there are reasonable grounds for their failure to meet the deadline applicable to them under it; you will consider this if the person then makes an application under the scheme.

This notice must be recorded on the relevant Home Office IT systems and, during the period given by it for an application to be made by the person to the EU Settlement Scheme, no immigration enforcement action for being in the UK without leave will normally be taken in respect of them.

Where the person then makes a valid application under Appendix EU and you are satisfied that there are reasonable grounds for the person’s failure to meet the deadline applicable to them under the EU Settlement Scheme, you must consider the application under the other eligibility requirements and the suitability requirements of Appendix EU and in line with this guidance on the scheme.

Where the person then makes an application under Appendix EU which is missing any of the components required under rule EU9 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. Should the validity requirements of rule EU9 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(1) of Appendix EU. See Validity consideration.

Examples of reasonable grounds

The section describes some circumstances in which you may be satisfied that a person has reasonable grounds for missing the deadline applicable to them under the EU Settlement Scheme, but it is not exhaustive and every case must be considered in light of its particular circumstances.

Children (including children in care and care leavers)

Where a parent, guardian or Local Authority has failed by the relevant deadline to apply to the EU Settlement Scheme on behalf of a child under the age of 18, that will normally constitute reasonable grounds for the child – including where they are now an adult – to make a late application to the scheme. It may be some months or even years after the deadline has passed before the person realises – perhaps when they first need to evidence their immigration status in order to work or study in the UK – that an application to the scheme should have been made on their behalf and was not.
There may be a range of circumstances in which an application to the EU Settlement Scheme by the relevant deadline has not been made for or by the child. For example:

- the child’s parent(s) made an application to the scheme for themselves and did not realise that a separate application had to be made for the child, or did realise this but did not get around to making the application
- the child’s parent(s) ignored the need to apply to the scheme themselves and took no action where the child was concerned
- the child is in or has left Local Authority care and the Local Authority has or had legal parental responsibility for them but did not make an application to the scheme on their behalf (or the child’s parent(s) retained legal parental responsibility for them but did not make an application to the scheme on their behalf)
- the EEA citizen parents, resident in the UK before the end of the transition period, of a non-British citizen child born or adopted (or becoming subject to a relevant guardianship order) in the UK after that point were not aware that they needed to make an application to the scheme for the child within 3 months of the birth, adoption or order (or by 30 June 2021 where this occurred before 1 April 2021)
- the child was at school in the UK (while their parents worked overseas) and the child, school and parents were unaware of the need for the child to apply to the scheme

You do not need to consider the reasons why a parent, guardian or Local Authority failed to apply to the scheme on behalf of the child by the relevant deadline, or why the child did not make an application on their own behalf by that deadline.

A late application to the EU Settlement Scheme may be made by the child themselves, whether or not they are now an adult, or (where they are not an adult) by a parent, guardian or (where they remain a ‘looked after’ child) Local Authority on their behalf or (where they are now an adult) by an appropriate third party on their behalf.

You do not need to consider the detailed basis on which a child was in Local Authority care or is or was a care leaver, but more information about such cases is available in EU Settlement Scheme – looked after children and care leavers: local authority and health and social care trust guidance.

Example 1

The EEA citizen parents of A, also an EEA citizen, have been resident with her in the UK since September 2015. They made an application to the EU Settlement Scheme in December 2020 and were granted settled status, but mistakenly assumed that their daughter would be automatically granted this status in line with theirs without having to apply. This did not come to light until A applied to university in the UK in 2022 and was required to provide evidence of her immigration status in the UK.
These are reasonable grounds for A missing the deadline applicable to her and now making a late application to the scheme.

Example 2

B is an EEA citizen aged 17 who has lived in the UK since 2014 with his EEA citizen parents. He applies to the EU Settlement Scheme in August 2021, stating that he forgot to apply by 30 June 2021 and that he does not know whether his parents have obtained status under the scheme. You do not need to consider the reasons why B’s parents failed to apply to the scheme on his behalf by the relevant deadline. These are reasonable grounds for B missing the deadline applicable to him and now making a late application to the scheme.

Example 3

C is aged 19 and is a care leaver, having left Local Authority care after 6 years in care. From the information available to them, the Local Authority thought that C was a British citizen, but recent action to complete an application for a UK passport for him has established that he is an EEA citizen and not a British citizen. These are reasonable grounds for C missing the deadline applicable to him and now making a late application to the scheme.

Example 4

D is an EEA citizen, now aged 21, and was a care leaver, having left Local Authority care in March 2021 aged 18 after 4 years in care. The Local Authority helped him find employment when he left care and he started work in May 2021, showing his passport as an EEA citizen as proof of his status in the UK – 3 years on, he has now applied for a new job and needs to evidence his UK immigration status. He had not previously heard of the EU Settlement Scheme. These are reasonable grounds for D missing the deadline applicable to him and now making a late application to the scheme.

Physical or mental capacity and/or care or support needs

Where a person lacks the physical or mental capacity to apply to the EU Settlement Scheme (or for example did so in the months before the deadline applicable to them), that will normally constitute reasonable grounds for the person to make a late application to the scheme or for an appropriate third party to apply to the scheme on their behalf.

Where a person has care or support needs (or for example did so in the months before the deadline applicable to them), that will also normally constitute reasonable grounds for the person to make a late application to the scheme or for an appropriate third party to apply to the scheme on their behalf. This may include many adults with physical or mental capacity issues, but will also include adults with broader care or support needs, such as those who may be residing in a residential care home, or
receiving care and support services in their own home, with long-term physical or mental health needs or a disability.

Evidence that may satisfy you that a person lacks the physical or mental capacity to apply to the EU Settlement Scheme (or did so) or has relevant care or support needs (or did so) may include:

- evidence that a formal arrangement, such as a Power of Attorney, is or was in place in respect of the person
- a letter from a doctor, health professional, social services department or solicitor confirming the circumstances
- a letter from the applicant themselves explaining the circumstances and authorising an appropriate third party to act on their behalf
- evidence of a carer relationship where an appropriate third party is providing for the person’s care needs, for example a Department for Work and Pensions letter confirming the eligibility of the third party for Carer’s Allowance

For further guidance, see Applications in respect of adults with mental capacity issues and/or care or support needs.

Example 1

E is an EEA citizen, aged 75, who lives alone. His dementia means that he often struggles to complete everyday tasks and he receives Local Authority care and support services in his own home. A friend points out to E that he needs to make an application to the EU Settlement Scheme and offers to complete the application for him. E agrees and the friend makes an application to the scheme for him in October 2021, uploading a letter signed by E explaining the circumstances and authorising the friend to act on his behalf. These are reasonable grounds for E missing the deadline applicable to him and now making a late application to the scheme.

Example 2

F is an EEA citizen, aged 80, and lives in a care home. She was unaware of the EU Settlement Scheme until a member of staff at the care home mentioned it to her. The member of staff helps F to complete an application herself to the EU Settlement Scheme in October 2021. These are reasonable grounds for F missing the deadline applicable to her and now making a late application to the scheme.

Serious medical condition or significant medical treatment

Where a person had a serious medical condition (or was undergoing significant medical treatment) in the months before, or around the time of, the deadline applicable to them, that will normally constitute reasonable grounds for the person to make a late application to the EU Settlement Scheme.

A serious medical condition could include for example:
• an illness (including COVID-19) or accident which meant that the person was hospitalised or bedbound in the months before, or around the time of, the deadline applicable to them
• an illness (including COVID-19) or accident which otherwise meant that the person was unable to perform day-to-day tasks in the months before, or around the time of, the deadline applicable to them

Pregnancy or maternity may be a reason why a person needs to make a late application to the EU Settlement Scheme, for example where a woman has a difficult child birth or where a new-born child is in need of medical treatment.

Evidence that a person had a serious medical condition (or was undergoing significant medical treatment) in the months before, or around the time of, the deadline applicable to them may include:

• a letter from a doctor or other health professional confirming the circumstances
• a letter from a carer, legal representative or other appropriate third party confirming the circumstances

Where a person had a serious medical condition (or was undergoing significant medical treatment) in the months before, or around the time of, the deadline applicable to them, that will also normally constitute reasonable grounds for a late application to the EU Settlement Scheme to be made in respect of a child or other dependent family member who was reliant on the person to make an application to the scheme on their behalf.

Example 1

G is an EEA citizen who has been resident in the UK since 2018. G makes an application to the EU Settlement Scheme in July 2021 and provides a letter from his GP explaining that he was hospitalised in February and March 2021 due to COVID-19 and was then recovering at home for several weeks. These are reasonable grounds for G missing the deadline applicable to him and now making a late application to the scheme.

Example 2

H is an EEA citizen who has been resident in the UK since 2014. In February 2021, she had an accident while rock-climbing and suffered a broken leg and hip. She was hospitalised for several weeks and then recovered at home, but she continued to have mobility problems which affected her ability to perform day-to-day tasks. H makes an application to the EU Settlement Scheme in August 2021 and provides a letter from her GP explaining the circumstances. These are reasonable grounds for H missing the deadline applicable to her and now making a late application to the scheme.
Victim of modern slavery

Where a person was prevented from applying to the EU Settlement Scheme before the deadline applicable to them because they may be a victim of modern slavery (which includes trafficking), that will normally constitute reasonable grounds for the person to make a late application to the scheme.

Where the person is a potential or confirmed victim of modern slavery – that is they have been the subject of a positive reasonable grounds or conclusive grounds decision made by the Single Competent Authority under the National Referral Mechanism – you will not need further information or evidence concerning that aspect.

Otherwise, where the person provides information with their application which suggests that they may be a victim of modern slavery, you must discuss this with a senior caseworker who must, in all circumstances, refer the application to your local safeguarding team for further advice. If this results in a referral (or in a duty to notify referral) to the National Referral Mechanism, you do not need to wait for the outcome of that if you are satisfied that there are other reasonable grounds (beyond whether the person is a potential or confirmed victim of modern slavery) for them to make a late application to the EU Settlement Scheme. You must, however, discuss this with a senior caseworker and your local safeguarding lead.

Factors to be taken into account when assessing whether there are reasonable grounds for the person to make a late application to the EU Settlement Scheme because they may be a victim of modern slavery include:

• the length of time since the alleged incident or incidents and any reasons given for this. For example, the person’s employer or trafficker may have retained their passport or other identity documents or failed to tell them about their immigration status
• the person may not have realised that they were a victim of modern slavery or may not have known how or where to get support
• previous immigration history, particularly where there is evidence that the applicant has made a number of unsuccessful attempts to secure leave to remain in the UK on different grounds
• other evidence available from Home Office records

For guidance on identifying victims of modern slavery and information on how to refer potential victims to the National Referral Mechanism, please see Victims of modern slavery.

Example

J is an EEA citizen who has been resident in the UK since 2015. After he lost his job in 2019 J was rough sleeping for a period. J began working in 2020 for a firm which offered board and lodging in lieu of pay rates at the National Living Wage; he had to surrender his passport to his employer. It was some months before, due to the harsh
conditions and long hours of his employment, J recognised that he was being exploited. He handed in his notice but his employer threatened violence to make him stay. After several weeks J managed to escape and he then sought help from a community organisation that supports nationals of his country of nationality. The organisation referred his case to the National Referral Mechanism, which resulted in a positive conclusive grounds decision that J was a victim of modern slavery. They also advised J that he needed to apply to the EU Settlement Scheme and he did so in September 2021. These are reasonable grounds for J missing the deadline applicable to him and now making a late application to the scheme.

Abusive or controlling relationship or situation

Where a person was prevented from applying to the EU Settlement Scheme before the deadline applicable to them because they are or were a victim of domestic violence or abuse (or the family member of such a victim), or are or were otherwise in a controlling relationship or situation which prevented them from applying, that will normally constitute reasonable grounds for the person to make a late application to the scheme. The nature of that abusive or controlling relationship or situation may take one of several forms; you must take a flexible and pragmatic approach in considering each case in light of its particular circumstances.

Neither Appendix EU, nor any other parts of the Immigration Rules, specify any mandatory evidence to be submitted with an application to demonstrate the applicant has been a victim of domestic violence or abuse, or otherwise in a controlling relationship or situation. All the information and evidence given by the person must be considered and a conclusion drawn as to whether there is sufficient evidence to demonstrate that this is the case.

Factors to be taken into account when assessing the evidence include:

- the length of time since the alleged incident or incidents of domestic violence or abuse, or of other controlling behaviour, and any reasons given for this – for example, a family member may have retained the person’s passport or other documents or failed to tell them about their immigration status
- the person may not have realised that they were experiencing domestic abuse or may not have known how or where to get support
- the fact that the applicant and the perpetrator may still be living at the same address may not necessarily be taken as an indicator that the relationship has not broken down permanently as a result of abuse, as this could be due to a number of reasons. For example, the applicant’s lack of knowledge of or access to safety and support, their fear of losing custody of any children, their fear for their or their children’s safety, a lack of means to support themselves or their children financially, or religious or cultural beliefs or practices
- previous immigration history, particularly where there is evidence that the applicant has made a number of unsuccessful attempts to secure leave to remain in the UK on different grounds
- other evidence available from Home Office records
For guidance on the type of evidence which may be produced and factors which are to be taken into account when considering whether the evidence is sufficient to demonstrate that the applicant is a victim of domestic violence or abuse, see the table of evidence for this in Victims of domestic violence and abuse.

This is not exhaustive and all the information and evidence must be considered in the round. You must take a flexible and pragmatic approach. Each case must be considered in light of its particular circumstances and in consultation with your senior caseworker.

Example

K is the non-EEA citizen spouse of an EEA citizen. K and her husband have lived together in the UK since 2018. Her husband regularly perpetrates physical and psychological abuse against K and keeps possession of her passport. A friend of K puts her in contact with a community organisation which assists victims of domestic abuse. In August 2021, that organisation helps K make an application to the EU Settlement Scheme, using such alternative evidence of her and her husband’s identity and nationality and such evidence of their UK residence as is available to her. These are reasonable grounds for K missing the deadline applicable to her and now making a late application to the scheme.

Other compelling practical or compassionate reasons

There may be other compelling practical or compassionate reasons as to why a person did not apply to the EU Settlement Scheme before the deadline applicable to them, which constitute reasonable grounds for them to make a late application to the scheme.

For example, a person may have been unaware of the requirement to apply to the EU Settlement Scheme by the relevant deadline or they may have failed to make an application by that deadline because for example they had no internet access, had limited computer literacy or limited English language skills or had been living overseas. Relevant evidence of this could include:

- evidence – such as a letter from a relative, carer or care home – that the person’s personal circumstances and their digital or language skills meant that they were unable to make an application by the deadline applicable to them
- evidence that the person was outside the UK in the months before the deadline applicable to them

Or a person may have been unaware of the requirement to apply to the EU Settlement Scheme by the relevant deadline or they may have failed to make an application by that deadline because for example:

- of a lack of permanent accommodation which meant that they did not have access to a computer or to the documents required to make an application
they have complex needs and were not aware of the support available to help them apply
they were hampered in accessing the support available to help them apply by restrictions associated with the COVID-19 pandemic
they overlooked the need to apply or they overlooked the deadline, or they failed to get round to applying by the deadline, in light of their personal circumstances
they have lived in the UK for a significant period of time and having done so did not realise they must still secure status under the EU Settlement Scheme
they need to apply on a paper application form and did not request this from the EU Settlement Resolution Centre until shortly before the relevant deadline

Relevant evidence of this could include:

- a letter from a charity or homeless shelter confirming the person’s circumstances
- information from the Department for Work and Pensions
- information from the person, such as about their attempts to access support in making an application

Or a person may have been unable for compelling practical or compassionate reasons – including in light of the COVID-19 pandemic – to obtain the evidence of identity and nationality or residence required to make an application. You may accept alternative evidence of identity and nationality where the applicant cannot obtain or produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons: see Alternative evidence of identity and nationality or of entitlement to apply from outside the UK. You may also accept a very wide range of evidence of residence: see Evidence of residence. In either case, you can do so in an application made before the applicable deadline, but the person may not have been aware of that or of the support available to help them apply or they may have been hampered by restrictions associated with the COVID-19 pandemic and the impact it may have had on consular services. Relevant evidence of this could include a letter from a Local Authority, charity or homeless shelter confirming the person’s circumstances or information from the person about their attempts to obtain the required document.

An EEA citizen or their family member resident in the UK before the end of the transition period who either acquired a right of permanent residence in the UK under EU law, or resided in the UK for a continuous qualifying period of five years, before serving a sentence of imprisonment may be eligible for settled status under the EU Settlement Scheme. They can apply from prison (on a paper application form obtained from the EU Settlement Resolution Centre) or an appropriate third party can apply on their behalf, though any status granted will be invalidated if they are subsequently deported.

Where the person is released from prison after the deadline applicable to them to apply to the scheme, there may be reasonable grounds for them to make a late application to the scheme. This will normally be the case where, for example, in light
of information from HM Prison and Probation Service (or the equivalent in Scotland or Northern Ireland) or other information, you are satisfied that in prison they either:

- lacked ready access to immigration advice
- had reduced access to relevant documents required in order to make an application
- were awaiting a decision on whether they were to be deported

Example 1

L is an EEA citizen who has been resident in the UK since 2019. He applies to the EU Settlement Scheme in September 2021 and provides a letter from a homelessness charity confirming that he was sleeping rough during 2021. These are reasonable grounds for L missing the deadline applicable to him and now making a late application to the scheme.

Example 2

M is an EEA citizen who has been claiming benefits since 2016 with the support of his appointee as he cannot read or write, but due to COVID-19, M’s appointee is currently unable to support him. He cannot rely on anyone else to support him meaning that he fails to apply to the EU Settlement Scheme. This is picked up through a routine Department for Work and Pensions review of his case in October 2021. These are reasonable grounds for M missing the deadline applicable to him and now making a late application to the scheme.

Example 3

N is an EEA citizen who has been resident in the UK since 2014. He was sentenced to imprisonment in October 2020 and released in July 2021. N makes an application to the EU Settlement Scheme in August 2021 and provides a letter from the resettlement officer at the prison explaining that there had been practical difficulties in facilitating and assisting prisoners with resettlement-related applications during his incarceration. These are reasonable grounds for N missing the deadline applicable to him and making a late application to the scheme.

Ceasing to be exempt from immigration control

Where an EEA citizen or their family member resident in the UK by the end of the transition period does not cease to be exempt from immigration control until after the 30 June 2021 deadline, Appendix EU deems this in itself to be reasonable grounds for them to make a late application to the EU Settlement Scheme.

Where such a person ceases to be exempt from immigration control on or after 1 July 2021, they will have a period of 90 days from the date on which they cease to be exempt to apply to the scheme. This is consistent with the period of 90 days during which, under section 8A of the Immigration Act 1971, a person ceasing to be
exempt is treated as having leave to remain in the UK, during which they can apply for the immigration status required to continue living in the UK if they wish to do so.

Beyond that 90-day period, they can make a late application to the scheme where you are satisfied, in line with this guidance, that there are reasonable grounds for them missing the deadline of the end of that period.

Where a person resident in the UK by the end of the transition period ceases to be exempt from immigration control in the period of three months preceding the 30 June 2021 deadline, this will, if they miss that deadline, normally constitute reasonable grounds for a late application within a reasonable period thereafter.

Where a joining family member of a relevant sponsor does not cease to be exempt from immigration control until after the 3-month deadline from their arrival in the UK, or their birth or adoption (or the making of a relevant guardianship order) here, Appendix EU deems this in itself to be reasonable grounds for them to make a late application to the EU Settlement Scheme. They will have a period of 90 days from the date on which they cease to be exempt to apply to the scheme. Beyond that 90-day period, they can make a late application to the scheme where you are satisfied, in line with this guidance, that there are reasonable grounds for them missing the deadline of the end of that period.

In all late applications based on prior exemption from immigration control, you will need to see official evidence from the applicant or other information available to you which confirms that exemption and the date on which it ceased. Relevant evidence of this could include an exempt vignette, a letter from the Foreign, Commonwealth & Development Office confirming the period of exempt status or a letter from the relevant embassy, high commission or international organisation confirming the period of the person’s relevant employment and residence in the UK.

For more information on exemption from immigration control, see guidance on exempt persons.

Example

O is an EEA citizen who has been resident in the UK since 2017 and who was working as an employee of an international organisation based in the UK and was exempt from immigration control while employed in that capacity. In March 2022, she changes employment and ceases to be exempt from immigration control as a result. In May 2022, O makes an application to the EU Settlement Scheme and provides a letter from her former employer setting out the period of her employment with them and official evidence of her exemption from immigration control while in that employment. These are reasonable grounds for O missing the 30 June 2021 deadline and now making a late application to the scheme.
Existing limited leave to enter or remain

Where an EEA citizen or their family member resident in the UK by the end of the transition period has limited leave to enter or remain granted under another part of the Immigration Rules (or outside the Rules, e.g. Discretionary Leave) which does not expire until after the 30 June 2021 deadline, Appendix EU deems this in itself to be reasonable grounds for them to make a late application to the EU Settlement Scheme.

They can apply before the date of expiry of their existing leave and, where they are granted indefinite or limited leave to enter or remain under Appendix EU before that expiry date, this will replace that leave.

Where a person has Discretionary Leave (or other limited leave to enter or remain granted outside, or under another part of, the Immigration Rules) which does not expire until after 30 June 2021, and they apply, before its expiry date, for further such leave and that leave is granted, this will normally constitute reasonable grounds for them to make a late application to the EU Settlement Scheme before, or within a reasonable period after, the expiry date of that further grant of Discretionary Leave (or other limited leave). A person is not required to cut short the period of their existing Discretionary Leave (or other limited leave) – on which, for example, their current access to public funds is based – by applying to the scheme before the date of expiry of that leave.

They can make a late application to the scheme after the date of expiry of their existing leave where you are satisfied, in line with this guidance, that there are reasonable grounds for them missing the deadline of that expiry date.

Where the date of expiry of the limited leave to enter or remain of a person resident in the UK by the end of the transition period is in the period of three months preceding the 30 June 2021 deadline, this will, if they miss that deadline, normally constitute reasonable grounds for a late application within a reasonable period thereafter.

In all late applications based on previous limited leave to enter or remain, you will need to see official evidence from the applicant or other information available to you which confirms that period of leave and the date on which it expired.

Example

P is now an EEA citizen who, when he was previously a non-EEA citizen, was granted limited leave to remain as a skilled worker under the Immigration Rules in 2018, which expired in July 2021. He was not aware that he was eligible to apply to the EU Settlement Scheme before the expiry of that leave. P makes an application to the scheme in September 2021 after a friend alerted him to this. These are reasonable grounds for P missing the deadline applicable to him and now making a late application to the scheme.
Existing indefinite leave to enter or remain

Where an EEA citizen or their family member resident in the UK by the end of the transition period has indefinite leave to enter or remain granted another part of the Immigration Rules (or outside the Rules), there is no requirement for them to apply to the EU Settlement Scheme.

They may do so if they wish, because for example indefinite leave to enter or remain granted under the scheme (settled status) to an EEA citizen or their family member does not lapse if the person is absent from the UK and Islands for up to 5 years (rather than 2 years as for other forms of such leave). It also provides the person with secure, digital evidence of their immigration status.

They can make a late application to the scheme where you are satisfied, in line with this guidance, that there are reasonable grounds for them missing the 30 June 2021 deadline, e.g. because they were not aware that they were eligible for the EU Settlement Scheme.

Example

Q is an EEA citizen who has been continuously resident in the UK since 1965. He was automatically granted indefinite leave to remain under the Immigration Act 1971. Q lives alone and has no internet access. He makes an application to the EU Settlement Scheme in October 2021 after his daughter points out him to that he is eligible for the scheme. There are reasonable grounds for Q missing the deadline applicable to him and now making a late application to the scheme.

Document or status under the EEA Regulations

Where a person subject to the 30 June 2021 application deadline for EEA citizens and their family members resident in the UK by the end of the transition period has a biometric residence card or other residence document issued under the EEA Regulations which remains valid at that date, they may not realise that, with the end of the grace period, they can no longer rely on an EU law right of residence in the UK and need to obtain UK immigration status under the EU Settlement Scheme.

They can make a late application to the scheme where you are satisfied, in line with this guidance, that there are reasonable grounds for them missing the 30 June 2021 deadline, e.g. because they were not aware that they needed to apply to the EU Settlement Scheme.

By virtue of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020, an EEA citizen who was lawfully resident in the UK by virtue of the EEA Regulations at the end of the transition period or their family members can, during the grace period from 1 January to 30 June 2021, still acquire the right of permanent residence in the UK under regulation 15 of the EEA Regulations. Where a person waited until they (or their EEA citizen family member)
had done so before applying to the EU Settlement Scheme, this will normally constitute reasonable grounds for them missing the 30 June 2021 deadline.

Example

R is the non-EEA citizen spouse of an EEA citizen who has been working in the UK since 2013. R and her husband have lived together in the UK since 2013. In 2019, R applied for and was issued a biometric residence card under the EEA Regulations, valid until 2029, as she had acquired the right of permanent residence in the UK as the family member of an EEA citizen. R was not aware that she needed to apply for status under the EU Settlement Scheme. R makes an application to the scheme in September 2021 after a friend alerted her to this. These are reasonable grounds for R missing the deadline applicable to her and now making a late application to the scheme.

Related content

Related external links

Appendix EU to the Immigration Rules
Making an application: validity

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

- it has been made using the required application process
- the required proof of identity and nationality has been provided, where the application is made within the UK
- the required proof of entitlement to apply from outside the UK has been provided, where the application is made outside the UK
- the required biometrics have been provided

Required application process: applications made online

Applicants must apply by using the relevant online application form, unless they are required or have been permitted to use a paper application form, and must follow the relevant process set out in that online application form for:

- providing the required proof of identity and nationality or (as the case may be) the required proof of entitlement to apply from outside the UK
- providing the required biometrics

Required application process: applications made on paper application form

Applicants must apply using either:

- the required paper application form where this is mandated on GOV.UK
- a paper application form where this has been issued individually to the applicant by the Secretary of State, via the relevant process for this set out on GOV.UK

In both cases, the applicant must follow the relevant process set out in that form for:

- providing the required proof of identity and nationality or (as the case may be) the required proof of entitlement to apply from outside the UK
- providing the required biometrics

Where the applicant applies using a paper application form, it must be sent by prepaid post or courier to the Home Office address specified on the form (where one is specified), or by e-mail to the Home Office e-mail address specified on the form (where one is specified).
Required proof of identity and nationality

For a European Economic Area (EEA) citizen making an application within the UK, this will be their valid passport or valid national identity card.

For a non-EEA citizen making an application within the UK, this will be their valid passport, valid specified relevant document (their biometric residence card) or valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007 and known as a biometric residence permit).

Unless, in either case, you agree to accept alternative evidence of identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or due to compelling or compassionate reasons. For further guidance, see Alternative evidence of identity and nationality or of entitlement to apply from outside the UK.

‘Valid’ here means that the document is genuine and has not expired or been cancelled or invalidated at the point it is provided. If, by the date the application is submitted (in accordance with the ‘date of application’ as defined in Annex 1 to Appendix EU) or considered, the document is no longer valid, the application remains a valid application for the purposes of rule EU9 of Appendix EU.

France has confirmed that the validity of the secure French national identity card (laminated), issued to people aged 18 or over from 1 January 2004 to 31 December 2013, has been increased from 10 years to 15 years. Therefore, any such card is to be treated as having a validity period of 15 years, regardless of the expiry date printed on the card.

Some countries have extended the validity period of their identity documents in response to the COVID-19 situation. The table below sets out which countries have made changes, which documents they apply to, and the impact on the expiry date.

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Evidence of the EEA citizen having been granted status under the scheme will constitute sufficient evidence of that person’s identity, nationality and continuity of 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 EEA citizen.

**Required proof of entitlement to apply from outside the UK**

For an EEA citizen making an application from outside the UK, this will be their valid passport or valid national identity card. The valid national identity card must contain an interoperable biometric chip.

Unless you agree to accept alternative evidence of entitlement to apply from outside the UK where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or due to compelling or compassionate reasons. For further guidance, see [Alternative evidence of identity and nationality or of entitlement to apply from outside the UK](#).

For a non-EEA citizen making an application from outside the UK, this will be their valid specified relevant document.

Unless you agree to accept alternative evidence of entitlement to apply from outside the UK where the applicant is unable to produce the required document due to circumstances beyond their control or due to compelling or compassionate reasons. For further guidance, see [Alternative evidence of identity and nationality or of entitlement to apply from outside the UK](#).

‘Valid’ here means that the document is genuine and has not expired or been cancelled or invalidated at the point it is provided. If, by the date the application is submitted (in accordance with the ‘date of application’ as defined in Annex 1 to Appendix EU) or considered, the document is no longer valid, the application remains a valid application for the purposes of rule EU9 of Appendix EU.

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Spain | National identity card | Any card expiring between 14 March 2020 - 13 March 2021 is to be accepted as valid until 13 March 2021

**Required biometrics**

Under the Immigration (Provision of Physical Data) Regulations 2006 (as amended), all applicants are required to 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.

In addition, in the case of a non-EEA citizen making an application from within the UK without a specified relevant document, they will also be required to provide their fingerprints (also within the meaning of “biometric information”) as part of the required application process, unless the published guidance in force at the date of application states that they are not required to provide these. See the published [biometric guidance](#) for more details.

**Validity consideration**

If an applicant submits an application which is missing any of the components required at rule EU9(a), (b), (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:

- under sub-paragraph (a), it has been made using the required application process
- under sub-paragraph (b), the required proof of identity and nationality has been provided, where the application is made within the UK
- under sub-paragraph (c), the required proof of entitlement to apply from outside the UK has been provided, where the application is made outside the UK
- under sub-paragraph (d), the required biometrics have been provided

Should the validity requirements at sub-paragraph (a), (b), (c) or (d) of rule EU9 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(1) of Appendix EU.
Treating an application as void

An application must be treated as void where:

- the applicant is a British citizen (including a dual British citizen) or otherwise has the right of abode in the UK
- the applicant has been granted settled status under the EU Settlement Scheme and this status remains valid
- the applicant dies before their application is decided
- the applicant is a person who is exempt from immigration control: see Who can apply

Certificate of application

A digital certificate of application (or in the case of an application made on paper, a hard copy certificate of application sent via post or email) 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.

Multiple applications

There may be occasions where an applicant has made more than one application to the scheme at the same time. For example, they may have submitted an online application (with a view to submitting the required proof of identity and nationality by post) but subsequently opted to apply via the ‘EU Exit: ID Document Check’ app (which enables them to provide that proof via the app).

Where this is the case, you must contact the applicant and explain to them that only one application can be made at a time and take the action set out below depending on the particular circumstances:

- where 2 or more invalid applications are submitted because, for example, the required proof of identity and nationality has not yet been provided, you must give the applicant a reasonable opportunity to provide what is needed to validate one of the applications and to withdraw the other or others:
  - if they validate one application but fail to withdraw the other or others, you must contact them again, inviting them to withdraw the invalid application or applications, giving a deadline of 10 working days, after which (if the applicant has not agreed to withdraw) you must reject any invalid application or applications under rule EU10(1) of Appendix EU - the valid application must be considered in the normal way
  - if for example they provide the required proof of identity and nationality but fail to specify which application they would like it to validate and fail to withdraw the others, you must validate their most recent application (where the other requirements of a valid application are met) and reject the other applications as invalid under rule EU10(1) of Appendix EU
if they do not validate any of the applications after being given a reasonable opportunity to do so, you must reject all the applications received as invalid under rule EU10(1) of Appendix EU

- where 2 or more applications are made, where one is valid and the other or others invalid, and the valid application would result in a grant of settled status, you must grant the valid application and reject the other application or applications as invalid under rule EU10(1) of Appendix EU - however, where the valid application would not result in a grant of settled status, you must contact the applicant inviting them to withdraw the invalid application or applications, giving a deadline of 10 working days, after which (if the applicant has not agreed to withdraw) you must reject any invalid application or applications under rule EU10(1) of Appendix EU and the valid application must be considered in the normal way
- where 2 or more applications are made, on different days or on the same day, and all are valid but not yet decided, the latest application must be treated as a variation of the earlier application or applications, which must be treated as withdrawn - this is in line with paragraph 34BB(2) of the Immigration Rules, with rule EU10(2) of Appendix EU (which disapplies paragraph 34BB(3) to (5) in respect of applications made under it) and with the published guidance on Applications for leave to remain: validation, variation and withdrawal - you must notify the applicant of this

Further applications

An applicant can only have one grant of limited or indefinite leave to enter or remain under the Immigration Rules at any one time. This means that, where a further valid application under the EU Settlement Scheme has been made after an earlier application under it has been decided:

- if the earlier application resulted in refusal, rejection, withdrawal, treatment as void or in any outcome other than a grant of leave under the scheme, then the latest application must be considered in the normal way
- if the earlier application resulted in settled status being granted, the further application must be treated as void
- if the earlier application resulted in pre-settled status being granted, the further application must be considered in the normal way

If you grant settled status where the applicant has pre-settled status, then it will vary (replace) the earlier grant of pre-settled status.

If you grant pre-settled status where the applicant has pre-settled status, then it will vary (replace) the earlier grant of pre-settled status. The date of the first grant of pre-settled status will remain the start date of their pre-settled status. The expiry date of their pre-settled status will be five years from the date of decision on the further application for pre-settled status.
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Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Alternative evidence of identity and nationality or of entitlement to apply from outside the UK

There may be reasons why an applicant in the UK cannot provide the required proof of identity and nationality in the form of (for a European Economic Area (EEA) or non-EEA citizen) a valid passport, (for an EEA citizen) a valid national identity card, or (for a non-EEA citizen) a valid biometric residence card or a valid biometric residence permit. You may accept alternative evidence of identity and nationality where the applicant cannot obtain or produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons.

There may also be reasons why an applicant outside the UK cannot provide the required proof of their entitlement to apply from outside the UK in the form of (for an EEA citizen) a valid passport or a valid national identity card, where this contains an interoperable biometric chip; or (for a non-EEA citizen) a valid biometric residence card. You may accept alternative evidence of identity and nationality where the applicant (if they are an EEA citizen) cannot obtain or (if they are an EEA or non-EEA citizen) cannot produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons.

Likewise, there may be reasons why a non-EEA citizen applicant without a documented right of permanent residence cannot provide the required evidence of the identity and nationality of their EEA citizen (or qualifying British citizen) family member in the form (which can be a copy and not the original document, unless you have reasonable doubt as to the authenticity of the copy submitted) of a valid passport or (for an EEA citizen) a valid national identity card. You may accept alternative evidence of identity and nationality where the applicant cannot obtain or produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons.

If the applicant provides a valid passport or national identity card from a country that is not recognised by the UK, such as the Turkish Republic of Northern Cyprus, you may accept this as evidence of their identity and nationality providing there are no indications to the contrary. In these circumstances you must discuss the case with a senior caseworker who may refer to the European Migration & Citizens’ Rights Unit for further advice.

Each case must be considered on its individual merits and you must refer to a senior caseworker in all instances where the applicant seeks to rely on alternative evidence of identity and nationality or of entitlement to apply from outside the UK.
Circumstances where alternative evidence may be accepted

The following lists are not exhaustive and there may be other circumstances beyond the control of the applicant, or other compelling practical or compassionate reasons, why they cannot obtain or produce the required document. Each case must be considered on its individual merits and you must refer to a senior caseworker in all instances where this guidance is engaged.

Document unobtainable from national authority

This section lists some circumstances where an applicant may be unable to obtain the required document due to circumstances beyond their control:

- the applicant’s passport has expired or has been permanently lost or stolen and there is no functioning national government to issue a replacement
- there is a national authority to apply to for a document, but they have run out of documents

In these circumstances the applicant is to be requested to provide as much information as possible, including details of any applications for documentation they may have made to their national authority (if applicable), and provide alternative evidence of their identity and nationality (see Other supporting information or evidence below).

Document exists but cannot be produced

If the Home Office or another Government department is holding the required document, you must contact the relevant section or department to confirm the details. If you are satisfied that this establishes the applicant’s identity and nationality, no further supporting evidence is required.

If the applicant states that the required document has been retained by a person in circumstances which have led to the applicant being the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism (i.e. they are a victim of trafficking), you must discuss this with a senior caseworker who must refer to your local safeguarding lead for further advice.

If the applicant is not the subject of a positive conclusive grounds decision under the National Referral Mechanism but states that the required document is being withheld from them by a third party, such as an employer or a family member, you must discuss this with a senior caseworker and your local safeguarding lead. This also applies if the applicant states that they are a victim of domestic violence or abuse and they are unable to produce the required document as a result. Domestic violence or abuse victims are to be asked to produce supporting evidence of their circumstances from a third party, such as the police or social services.
In both of the scenarios immediately above, and after referring to a senior caseworker and your local safeguarding lead, you must make a decision on whether to accept alternative evidence of identity and nationality of the applicant (and, where applicable, of the relevant EEA citizen or qualifying British citizen of whom the applicant is, or for the relevant period was, a family member) based on all the information and evidence available, taking into account the sensitivities of the case.

In all circumstances where you have agreed to consider alternative evidence of identity and nationality, the applicant is to be requested to provide as much information and evidence as possible, including details of any applications for documentation made to their national authority (see Other supporting information or evidence below).

Refugee status or humanitarian protection

There is a lower standard of proof for establishing identity and nationality in protection claims (asylum and humanitarian protection) than for the EU Settlement Scheme. Nonetheless, if the applicant is a person in the UK with refugee status or humanitarian protection, no further evidence of identity and nationality is required provided there is no evidence:

- this identity or nationality was confirmed in error
- the identity or nationality was fraudulently claimed or accepted
- the identity or nationality has materially changed
- the applicant has ceased to be a refugee or a person in need of humanitarian protection, which would mean they are now in a position to obtain and produce the required document

The applicant must be asked to produce alternative evidence of their identity and nationality (see Other supporting information or evidence below), where you accept that they cannot obtain or produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons, and where either:

- the applicant does not have, or no longer requires, refugee status or humanitarian protection
- there is reason to doubt their previously accepted identity or nationality

Other reasons document cannot be obtained or produced

There may be other reasons why the applicant cannot obtain or produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons. Each case must be considered on its individual merits and you must refer to a senior caseworker in all instances where this guidance is engaged.

If the applicant claims that it would be impossible or unreasonable for them to obtain or produce the required document due to a serious medical condition or due to their
mental capacity, they or the person acting for them must be requested to provide confirmation of their condition or capacity, and why it prevents them from obtaining or producing the required document, from their GP or other appropriately qualified medical professional.

There may also be occasions where other factors that are not in and of themselves considered a serious medical condition, such as an applicant’s age, that may still be a barrier to them being able to travel to their home country’s embassy or consulate as required in order to obtain the required document. In these circumstances, you may request a letter from their GP or other appropriately qualified medical professional confirming the barrier(s) to travel, but you must discuss the circumstances with a senior caseworker before doing do.

If you are satisfied that it would be impossible or unreasonable for the applicant to obtain or produce the required document, for example because their mental capacity falls under the Mental Capacity Act 2005 (for England and Wales), the Adults with Incapacity (Scotland) Act 2000 or common law in Northern Ireland, and there is no one reasonably able to do so on their behalf, then the applicant is to be asked to produce alternative evidence of their identity and nationality (see Other supporting information or evidence below).

The applicant is to be asked to produce alternative evidence of their identity and nationality (see Other supporting information or evidence below), where the applicant is a child under the age of 18 in local authority care and both:

- the required document has been lost or destroyed, or was never obtained or provided
- either:
  - there is satisfactory evidence that it is not in the best interests of the child for the local authority to obtain the required document on their behalf, such as where doing so may risk the child, contrary to their own best interests, leaving local authority care
  - there are significant practical barriers to obtaining the required document, such as the national authority requiring the consent of both parents, but the parents are absent or un-cooperative

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Other supporting information or evidence

This section lists examples of other supporting information or evidence of identity and nationality, or of entitlement to apply from outside the UK, that an applicant may provide, alongside any other information or evidence you have gathered, where you have accepted that the applicant cannot obtain or produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons.

Each case must be considered on its own merits and you must work flexibly with the applicant to try to obtain sufficient supporting information or evidence to satisfy you of their identity and nationality or of their entitlement to apply from outside the UK. There may be cases where an applicant will need to produce more than one piece of evidence from the list below in order to satisfy you of this, for example, alongside other information you may be satisfied that a UK-issued driving licence confirms an applicant’s identity but not their nationality.

This list is not exhaustive: more than one piece of evidence can be requested on a case by case basis and each case must be considered on its own merits to help you build a picture of the applicant’s identity and nationality or of their entitlement to apply from outside the UK:

- documents previously issued by the Home Office (such as a document issued for emergency travel purposes) provided there is no evidence that this identity or nationality was confirmed in error, fraudulently, or has significantly changed
- an expired passport or other required document, bearing the applicant’s name and photograph
- an official document issued by the authorities of the applicant’s country of origin which confirms their identity and nationality, including birth certificate, marriage certificate, driving licence, tax / social security statement, national service document, or emergency travel document or similar – this is not an exhaustive list and other similar documents may be considered
- an official document issued by the UK authorities which confirms the applicant’s identity and, if possible, nationality – and this can include a UK driving licence, National Insurance number card, or tax or pension statement – this is not an exhaustive list and other similar documents may be considered
- an official document issued by the authorities of an EEA country which confirms the applicant’s identity and nationality, including a document confirming permanent residence in that state or registration as the family member of an EEA citizen exercising Treaty rights in that state
- the applicant’s biometrics (facial photograph and, in the case of a non-EEA citizen, fingerprints) which match an existing government record confirming their identity and nationality

Where other steps to ascertain an applicant’s identity and nationality have been exhausted, you may refer to the embassy, consulate or high commission in the UK of the applicant’s claimed country of origin seeking confirmation as to any records held
about the claimed identity and nationality. You must be satisfied that such an approach would not put the applicant or their family at risk and must consult your senior caseworker in all cases before proceeding.

You may also invite the applicant to an interview to assess their ties to their claimed country of origin, including knowledge of its geography, culture and language. Such an interview can be held in person, by telephone, by videolink or over the internet as long as you are satisfied that the person to whom you are speaking is the applicant.

**Irish citizens**

In the case of an Irish citizen, where there are circumstances beyond their control or compelling practical or compassionate reasons why they cannot provide the required document, alternative evidence may include their full Irish birth certificate or an Irish certificate of naturalisation. This can be accompanied by a photographic identity document (such as a driving licence or Irish Public Service Card) as evidence of identity. Other documentation (see Other supporting information and evidence above) may also be considered if necessary.

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[Appendix EU to the Immigration Rules](#)
Withdrawing an application

An applicant may request to withdraw their application at any time after it has been submitted but before, where it is a valid application, a decision has been made on the application and this decision has been recorded on the caseworking system.

Requesting to withdraw an application

An applicant can withdraw their application by written request online or by post. This applies to applications made in the UK and from overseas. If the request is ambiguous, you must confirm the withdrawal request with the applicant.

A request for withdrawal must generally be made by the applicant named on the application form. Where the applicant is aged under 18 or was unable to submit their application themselves, you may accept a request for withdrawal from the person or organisation named on the application form as having provided assistance to them or as having completed the application on their behalf.

Requesting to withdraw online

The applicant must request to withdraw an application in writing. To do this online, they must use 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 the request is received by the Home Office, calculated in line with the information set out in ‘Date of application: original application’.

Requesting to withdraw by post

The applicant must request to withdraw an application in writing. To do this by post, they must send a withdrawal request to:

EU Settlement Scheme
PO BOX 2075
Liverpool
L69 3YG

The date of withdrawal is the date the request is received by the Home Office, calculated in line with the information set out in ‘Date of application: original application’.

Withdrawn applications

The case of Qadeer v SSHD clarified that the Secretary of State does not have to agree to withdraw an application and may still consider and decide the application even where that might lead to a refusal.
For example, where there is a suspicion that deception has been used by the applicant if they have submitted fraudulent documents in support of their application.

If you do not think that it is appropriate to agree to a request to withdraw an application, you must discuss this with your senior caseworker.

**Date of application: original application**

The date of application, as defined in Annex 1 to Appendix EU, is the date on which the application is submitted under the required application process, which means:

- for on-line applications: the date on which the form is submitted on-line
- for paper applications, either:
  - the date of posting to the Home Office address specified on the form (where one is specified), as shown on the tracking information provided by Royal Mail or, if not tracked, by the postmark date on the envelope
  - where the paper application form is sent by courier, or other postal services provider, the date on which it is delivered to the Home Office address specified on the form (where one is specified)
  - where the paper application form is sent by e-mail, the date on which it is recorded by Home Office e-mail software as received at the Home Office e-mail address specified on the form (where one is specified)

If the envelope in which the application was posted is missing, or if the postmark is illegible, you must take the date of posting to be at least one working day before it is received by the Home Office. If there is also accompanying correspondence with the application that matches the likely date of posting, and that date is earlier than the date of posting calculated using the above method, you must take this earlier date as the application date.

If you withdraw a decision to treat an application as invalid and instead accept it as valid, the date of application is the date the application was originally made.

If an application, or variation, was previously rejected as invalid and the applicant then submits a valid application, the date of application, or variation, is the date the valid application is submitted.

**Confirmation of withdrawal**

Once a request to withdraw an application has been actioned, you must use the relevant information provided by the applicant as their correspondence address to confirm to them that their application has been withdrawn and note on the caseworking system that this has been done.
Travel outside the Common Travel Area

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

Related content
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Related external links
Appendix EU to the Immigration Rules
Qadeer v SSHD
Variation of applications

This section tells you how to deal with a variation of an application. An applicant can generally only have one valid application for leave under the Immigration Rules 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 indefinite leave or limited leave under another part of the Immigration Rules, the original application will be varied by the second application and must no longer be considered unless the second application is a human rights or protection claim.

Where the second application is a human rights or protection claim, both applications must be considered, and where both applications fall to be granted, you must consult your senior caseworker who must consult the European Migration & Citizens’ Rights Unit before either application is decided.

Application pending under another part of the Immigration Rules

If an applicant has an application for indefinite leave or limited leave 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 (unless the original application is a human rights or protection claim). Where this is the case, and the scheme application is on PEGA, you must inform the casework team dealing with the original application as they may not otherwise be aware that the scheme application has varied the original application, which is likely to be on CID or ATLAS. Any fee paid in respect of the original application must be refunded.

Where the original application is a human rights or protection claim, both applications must be considered, and where both applications fall to be granted, you must consult your senior caseworker who must consult the European Migration & Citizens’ Rights Unit before either application is decided.

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 any fee that was paid for the application under the EEA Regulations.
Date of application: variations

Where an application is varied, the application date remains the date of the original application. This is relevant to whether an applicant has, or will have, section 3C leave (under that section of the Immigration Act 1971).

Where a variation application is made in accordance with paragraph 34E of the Immigration Rules, the date the variation application is made is the date to be used for the purposes of assessment against the Rules.

Related content
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Related external links
Appendix EU to the Immigration Rules
Making an application: eligibility

This section tells you the requirements for eligibility of an applicant for indefinite leave which is also referred to for the purposes of the scheme as ‘settled status’, or 5 years’ limited leave which is also referred to as ‘pre-settled status’.

Where they meet the relevant criteria, applicants who make an application within the UK will be granted either indefinite leave to remain (ILR) or limited leave to remain (LTR), and applicants who make an application outside the UK (from 7.00am on 9 April 2019) will be granted either indefinite leave to enter (ILE) or limited leave to enter (LTE).

Where the applicant is a European Economic Area (EEA) citizen resident in the UK before the specified date as a family member of an EEA citizen resident here, the applicant will be able to rely on their own continuity of residence as a relevant EEA citizen to apply for status under the scheme, or they can apply as a family member if they prefer: see family members.

EEA citizens

Documented right of permanent residence

An EEA citizen will be eligible for ILE or ILR under the scheme, as a relevant EEA citizen under condition 1 in rule EU11, where, at the date of application and in an application made by the required date, 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 either:

- a document certifying permanent residence under regulation 19 of the EEA Regulations
- 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 in addition:

- 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

Or, as regards the Islands, this means that you are satisfied from the information available to you that the applicant has either been:
• given notice in writing under paragraphs 256 to 257A of the Immigration Rules of the Bailiwick of Guernsey showing that they may remain indefinitely, and this notice has not been revoked or otherwise ceased to be effective
• issued by the relevant Minister with a document in accordance with paragraphs 255 to 258 of the Immigration Rules of the Bailiwick of Jersey in an appropriate form certifying permanent residence, and this document has not been revoked or otherwise ceased to be effective
• issued with a letter certifying permanent residence, or their passport has been stamped to that effect, under the Immigration (European Economic Area) Regulations of the Isle of Man, and this has not been revoked, invalidated or cancelled

It also means both that:

• the applicant has not been absent from the UK and Islands 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 the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the EEA Regulations of the Isle of Man) or since they last completed a continuous qualifying period of 5 years
• none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  o any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  o 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  o an exclusion decision
  o a deportation order, other than by virtue of the EEA Regulations
  o an Islands deportation order
  o an Islands exclusion decision

Existing indefinite leave to enter or remain

An EEA citizen will be eligible for ILE or ILR under the scheme, as a relevant EEA citizen under condition 2 in rule EU11, where, at the date of application and in an application made by the required date, there is valid evidence of their indefinite leave to enter or remain in the UK or the Islands.

This means either:

• a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007, and known as a 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 indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated

- you are otherwise satisfied from the evidence or information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK or the Islands, and this status both:
  - has not lapsed through absence from the UK and Islands for a period of more than 2 consecutive years
  - has not been revoked or invalidated

Continuous qualifying period of 5 years

An EEA citizen will be eligible for ILE or ILR under the scheme, as a relevant EEA citizen under condition 3 in rule EU11, where, at the date of application and in an application made by the required date, they have completed a continuous qualifying period of residence in the UK and Islands of 5 years which began before the specified date – as a relevant EEA citizen, a family member of a relevant EEA citizen, a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, a person with a derivative right to reside, a person with a Zambrano right to reside, or a person who had a derivative or Zambrano right to reside, or in any combination of those categories.

Where an applicant relies on more than one of those categories in order to complete their continuous qualifying period of 5 years, there can be no gap between the periods of qualification under each category relied upon. This does not affect the absences from the UK and Islands which are permitted during a continuous qualifying period.

And where no supervening event has occurred, which means both that since completing that 5 year period:

- they have not been absent from the UK and Islands 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 revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision
Ceased activity

An EEA citizen will be eligible for ILE or ILR under the scheme, as a relevant EEA citizen under condition 4 in rule EU11, having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, where, at the date of application and in an application made by the required date, 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 both:
  - been a worker or self-employed person in the UK for at least the preceding 12 months
  - resided in the UK and Islands for a continuous qualifying period of more than 3 years which began before the specified date
- stopped being a worker or self-employed person in the UK owing to permanent incapacity to work and either:
  - had resided in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which began before the specified date
  - 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
- resided in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which began before the specified date, immediately before becoming a worker or self-employed person in an EEA country or Switzerland (see: the countries listed in sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU), 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 you are satisfied (including by the required evidence of family relationship) that the relevant EEA citizen is the spouse or civil partner of a British citizen.

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

- they have not been absent from the UK and Islands 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 revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
- an exclusion decision
- a deportation order, other than by virtue of the EEA Regulations
- an Islands deportation order
- an Islands exclusion decision

For further information on how to consider an application that meets these requirements please see consideration of applications for indefinite leave to enter (ILE) or indefinite leave to remain (ILR).

Child under the age of 21

An EEA citizen will be eligible for ILE or ILR under the scheme as a child under the age of 21 under condition 7 in rule EU11, including where they have a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, where, at the date of application and in an application made by the required date:

- you are satisfied, including by the required evidence of family relationship, that they are a family member of a relevant EEA citizen and a child under the age of 21 of a relevant EEA citizen or of their spouse or civil partner (see assessing family relationship) and either:
  - the marriage was contracted or the civil partnership was formed before the specified date
  - the person who is now the spouse or civil partner of the relevant EEA citizen was their durable partner before the specified date and the partnership remained durable at the specified date

And, in addition, where the date of application by the child is before 1 July 2021, either the relevant EEA citizen (or, as the case may be, their spouse or civil partner):

- has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
- is an Irish citizen who has not made a valid application under Appendix EU and who would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU if they made such an application before 1 July 2021
- (where the applicant is the family member (“F”) to whom paragraph 9 of Schedule 6 to the EEA Regulations refers and meets the criteria as F in that paragraph) is an EEA citizen in accordance with sub-paragraph (c) of the definition in Annex 1 to Appendix EU, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• is a relevant person of Northern Ireland and either:
  o an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  o a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• is a person exempt from immigration control, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• the relevant EEA citizen (or the spouse or civil partner) is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of the relevant definition in Annex 1 to Appendix EU)

Continuous qualifying period of less than 5 years

An EEA citizen who, at the date of application and in an application made by the required date, has completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, and who does not qualify under one of the routes to ILE or ILR for those with a continuous qualifying period of residence in the UK and Islands of less than 5 years, will be eligible for 5 years' limited leave to enter or remain as a relevant EEA 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 enter (LTE) or remain (LTR).

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Eligibility: family members of a relevant EEA citizen

Who can apply as a family member of a relevant EEA citizen?

To apply under the family member of a relevant EEA citizen provisions, an applicant must have been resident by 11pm GMT on 31 December 2020 on a basis which met the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU and thereafter not have broken the continuity of their residence.

The following EEA citizen or non-EEA citizen family members of an EEA citizen who do not meet the definition of ‘joining family member of a relevant sponsor’ may be eligible to apply:

- **spouse**, where either:
  - the marriage was contracted before the specified date
  - the applicant was the durable partner of the relevant EEA citizen before the specified date (the definition of ‘durable partner’ in Annex 1 to Appendix EU being met before that date rather than at the date of application) and the partnership remained durable at the specified date

- **civil partner**, where either:
  - the civil partnership was formed before the specified date
  - the applicant was the durable partner of the relevant EEA citizen before the specified date (the definition of ‘durable partner’ in Annex 1 to Appendix EU being met before that date rather than at the date of application) and the partnership remained durable at the specified date

- **durable partner** (unmarried partner whose relationship is akin to marriage or civil partnership, and the applicant holds a relevant document in this capacity, where they rely on residence in the UK in that capacity before the specified date), where both:
  - the partnership was formed and was durable before the specified date
  - the partnership remains durable at the date of application (or did so for the relevant period or immediately before the death of the relevant EEA citizen)

- **child under 21 of the EEA citizen or of the spouse or civil partner** and the family relationship existed before the specified date

- **dependent child over 21 of the EEA citizen or of the spouse or civil partner** and the family relationship existed before the specified date

- **dependent parent of the EEA citizen or of the spouse or civil partner** and the family relationship existed before the specified date

- **dependent relative of the EEA citizen or of the spouse or civil partner** (in either case) before the specified date, and both:
  - the applicant holds a relevant document in this capacity
  - the dependency (or, as the case may be, their membership of the household or their strict need for personal care on serious health grounds)
continues to exist at the date of application (or did so for the period of residence relied upon)

In addition, where the applicant does not rely on meeting condition 1, 3 or 6 of paragraph 11 of Appendix EU, or on being a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, the family relationship continues to exist at the date of application.

Documented right of permanent residence

A family member will be eligible for ILE or ILR under the scheme, under condition 1 in rule EU11, as the family member of a relevant EEA citizen (or as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen), where, at the date of application and in an application made by the required date, 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 either:

- a document certifying permanent residence under regulation 19 of the EEA Regulations
- a permanent residence card (issued or renewed within the last 10 years) under regulation 19 of the EEA Regulations
- 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 in addition:

- this document or card is not invalid under regulation 19(4)(c)
- 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

Or, as regards the Islands, this means that you are satisfied from the information available to you that the applicant has either been:

- given notice in writing under paragraphs 256 to 257A of the Immigration Rules of the Bailiwick of Guernsey showing that they may remain indefinitely, and this notice has not been revoked or otherwise ceased to be effective
- issued by the relevant Minister with a document in accordance with paragraphs 255 to 258 of the Immigration Rules of the Bailiwick of Jersey in an appropriate form certifying permanent residence or a permanent residence card, and this document or card has not been revoked or otherwise ceased to be effective
• issued with a letter certifying permanent residence, or their passport has been stamped to that effect, under the Immigration (European Economic Area) Regulations of the Isle of Man, and this has not been revoked, invalidated or cancelled

It also means both that:

• the applicant has not been absent from the UK and Islands 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 the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the EEA Regulations of the Isle of Man) or since they last completed a continuous qualifying period of 5 years
• none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  o any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  o 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
    o an exclusion decision
    o a deportation order, other than by virtue of the EEA Regulations
    o an Islands deportation order
    o an Islands exclusion decision

Where the applicant has a documented right of permanent residence, their family relationship with a relevant EEA citizen, or the period in which they retained a right of residence by virtue of that relationship, may be in the past; it does not need to remain extant at the date of application. They do not therefore need to provide the required evidence of family relationship as this will have been confirmed when their right of permanent residence was documented under the EEA Regulations.

Existing indefinite leave to enter or remain

A family member will be eligible for ILE or ILR under the scheme, under condition 2 in rule EU11, as a family member of a relevant EEA citizen (or as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen), where, at the date of application and in an application made by the required date, 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 evidence and information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK or Islands, and this status both:
  o has not lapsed through absence from the UK and Islands for a period of more than 2 consecutive years
  o has not been revoked or invalidated

It also means that you must be satisfied, including by the required evidence of family relationship, that, at the date of application, the applicant is the family member of a relevant EEA citizen (see assessing family relationship).

Continuous qualifying period of 5 years

A family member will be eligible for ILE or ILR under the scheme, as the family member of a relevant EEA citizen (or as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen) under condition 3 in rule EU11, where, at the date application and in an application made by the required date:

• you are satisfied, including by the required evidence of family relationship, that the applicant is the family member of a relevant EEA citizen (see assessing family relationship)
• they have completed a continuous qualifying period of residence in the UK and Islands of 5 years which began before the specified date as such a family member (or as a relevant EEA citizen, as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, as a person with a derivative right to reside, as a person with a Zambrano right to reside, or as a person who had a derivative or Zambrano right to reside, or in any combination of those categories)
• since completing that 5 year period, they have not been absent from the UK and Islands for a period of more than 5 consecutive years
• since completing that 5 year period, none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  o any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  o 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  o an exclusion decision
  o a deportation order, other than by virtue of the EEA Regulations
Where the applicant has completed a continuous qualifying period of residence in the UK and Islands of 5 years which began before the specified date, as the family member of a relevant EEA citizen (or as a family member who has retained the right of residence by virtue of their relationship with a relevant EEA citizen), the family relationship or the period in which they retained a right of residence by virtue of that relationship, may be in the past; it does not need to remain extant at the date of application.

Child under the age of 21

A child under the age of 21 will be eligible for ILE or ILR under the scheme under condition 7 in rule EU11, including where they have completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, where, at the date of application and in an application made by the required date:

- you are satisfied, including by the required evidence of family relationship, that they are a family member of a relevant EEA citizen and a child under the age of 21 of a relevant EEA citizen or of their spouse or civil partner (see assessing family relationship) and either:
  - the marriage was contracted or the civil partnership was formed before the specified date
  - the person who is now the spouse or civil partner of the relevant EEA citizen, was their durable partner before the specified date and the partnership remained durable at the specified date

And, in addition, where the date of application by the child is before 1 July 2021, either the relevant EEA citizen (or, as the case may be, their spouse or civil partner):

- has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
- is an Irish citizen who has not made a valid application under Appendix EU and who would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU if they made such an application before 1 July 2021
- (where the applicant is the family member (“F”) to whom paragraph 9 of Schedule 6 to the EEA Regulations refers and meets the criteria as F in that paragraph) is an EEA citizen in accordance with sub-paragraph (c) of the definition in Annex 1 to Appendix EU, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- is a relevant person of Northern Ireland and either:
an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- is a person exempt from immigration control, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- the relevant EEA citizen (or the spouse or civil partner) is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of the relevant definition in Annex 1 to Appendix EU)

The relevant EEA citizen has ceased activity

A family member will be eligible for ILE or ILR under the scheme – as the family member of a relevant EEA citizen who has ceased activity, under condition 5 in rule EU11 – having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, provided they apply by the required date and, where the date of application is before 1 July 2021, where the relevant EEA citizen either:

- has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU if they made a valid application under Appendix EU before 1 July 2021
- (where the applicant is the family member (“F”) to whom paragraph 9 of Schedule 6 to the EEA Regulations refers and meets the criteria as F in that paragraph) is an EEA citizen in accordance with sub-paragraph (c) of the definition in Annex 1 to Appendix EU, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted
indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- is a relevant person of Northern Ireland and either:
  - an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  - a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- is a person exempt from immigration control, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- is a relevant naturalised British citizen in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU

and:

- you are satisfied, including by the required evidence of family relationship, that the applicant was a family member of the relevant EEA citizen at the point at which the relevant EEA citizen became a person who has ceased activity (see assessing family relationship)
- the applicant was also resident in the UK and Islands for a continuous qualifying period which began before the specified date, immediately before the relevant EEA citizen became a person who has ceased activity

And, in addition, you are satisfied that the relevant EEA citizen is a person who has ceased activity because one of the following applies:

- the relevant EEA 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 both:
  - been a worker or self-employed person in the UK for at least the preceding 12 months
• resided in the UK and Islands for a continuous qualifying period of more than 3 years which began before the specified date
• the relevant EEA citizen stopped being a worker or self-employed person owing to permanent incapacity to work and either:
  o had resided in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which began before the specified date
  o 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
• the relevant EEA citizen resided in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which began before the specified date, immediately before becoming a worker or self-employed person in an EEA country or Switzerland (see: the countries listed in sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU), 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 first and second provisions above do not apply where you are satisfied that (including by the required evidence of family relationship) that the relevant EEA citizen is the spouse or civil partner of a British citizen.

And since the relevant EEA citizen became a person who has ceased activity, it is the case both that:

• the applicant has not been absent from the UK and Islands 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 revoked:
  o any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  o 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  o an exclusion decision
  o a deportation order, other than by virtue of the EEA Regulations
  o an Islands deportation order
  o an Islands exclusion decision

The relevant EEA citizen has died

A family member will be eligible for ILE or ILR under the scheme – as the family member of a relevant EEA citizen who has died, under condition 6 in rule EU11 – having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, where, at the date of
application and in an application made by the required date, the criteria in this section are met.

To be eligible for ILE or ILR as a family member of a relevant EEA citizen who has died, all the following must be met:

- you are satisfied, including by the required evidence of family relationship, that the applicant is a family member of a relevant EEA citizen (see assessing family relationship) and the relevant EEA citizen has died
- the relevant EEA citizen must have been resident in the UK as a worker or self-employed person (within the meaning of the EEA Regulations) at the time of their death
- the relevant EEA citizen must have been resident in the UK and Islands for a continuous qualifying period of at least 2 years which began before the specified date, immediately before dying, or the death must have been the result of an accident at work or an occupational disease
- the applicant must have been resident in the UK with the relevant EEA citizen immediately before their death
- since the death of the relevant EEA citizen, the applicant must not have been absent from the UK and Islands for a period of more than 5 consecutive years
- since the death of the relevant EEA citizen, none of the following events must have occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

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 EEA citizen, they can qualify for ILE or 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 EEA citizen, they will be eligible
for ILE or ILR, under condition 3 in rule EU11, on the basis of having completed a continuous qualifying period of residence in the UK and Islands of 5 years, which began before the specified date, as such a family member where the criteria in this section are met (or, prior to that, as a family member of a relevant EEA citizen, as a relevant EEA citizen, as a person with a derivative right to reside, as a person with a Zambrano right to reside or as a person who had a derivative or Zambrano right to reside, or in any prior combination of those categories).

You must also be satisfied that since satisfying those criteria, the ‘required continuity of residence’ has been maintained by the applicant. This means that, where the applicant has not completed a continuous qualifying period of five years (and does not have valid evidence of their indefinite leave to enter or remain, and has not acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man), then, since the point at which (where they do so) they began to rely on being in the UK and Islands as a family member who has retained the right of residence and while they continued to do so, one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of ‘continuous qualifying period’ in Annex 1 to Appendix EU has not occurred.

To be eligible to apply for ILE or ILR as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, on the basis of having completed a continuous qualifying period of residence in the UK and Islands of 5 years which began before the specified date (as set out above), you must be satisfied, including by the required evidence of family relationship (see assessing family relationship), that, at the date of application and in an application made by the required date, the applicant both:

- is an EEA or non-EEA citizen who was the family member of a relevant EEA citizen and that person died
- was resident in the UK as the family member of that relevant EEA citizen for a continuous qualifying period of at least a year which began before the specified date, immediately before the death of that person

Or that the applicant is either:

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

And, in either of the 2 bullet points immediately above, the child must have been attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant EEA citizen died or ceased to be a
relevant EEA citizen on ceasing to reside in the UK, and the child must continue to attend such a course.

Or that the applicant is:

- an EEA or non-EEA citizen who is 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 that all the following are met:

- the applicant is an EEA or non-EEA citizen who has ceased to be a family member of a relevant EEA citizen on the termination of the marriage or civil partnership of that relevant EEA citizen – and, for these purposes, where, after the initiation of the proceedings for that termination, that relevant EEA citizen ceased to be a relevant EEA citizen, they will be deemed to have remained a relevant EEA citizen until that termination
- the applicant was resident in the UK at the date of the termination of the marriage or civil partnership
- the applicant meets 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 during its duration the parties to the marriage or civil partnership had been resident in the UK for a continuous qualifying period of at least one year which began before the specified date
  - the applicant has custody of a child of the relevant EEA citizen
  - the applicant has the right of access to a child of the relevant EEA 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

Or that the applicant both:

- is an EEA or non-EEA citizen who provides evidence that a relevant family relationship with a relevant EEA citizen has broken down permanently as a result of domestic violence or abuse
- was resident in the UK when the relevant family relationship broke down permanently as a result of domestic violence or abuse, and the continued right of residence in the UK of the applicant is warranted where the applicant or another family member has been a victim of domestic violence or abuse before the relevant family relationship broke down permanently

‘Relevant family relationship’ means here a family relationship with a relevant EEA citizen such that the applicant is, or (immediately before the relevant family
relationship broke down permanently as a result of domestic violence or abuse) was, a family member of a relevant EEA citizen. Where, following the permanent breakdown of the relevant family relationship as a result of domestic violence or abuse, the applicant remains a family member of a relevant EEA citizen, they will be deemed to have ceased to be such a family member for the purposes of Appendix EU once the permanent breakdown occurred.

Where the applicant is applying on the basis that their continued right of residence in the UK is warranted where they or another family member have been a victim of domestic violence or abuse before the relevant family relationship broke down permanently, the applicant does not need to provide evidence which satisfies you that they remain dependent on the relevant EEA citizen or (where relevant) on the spouse or civil partner, if the applicant is either:

- a child aged 21 or over of a relevant EEA citizen (or of their spouse or civil partner) and was not previously granted limited leave to enter or remain under Appendix EU (or under its equivalent in the Islands) as a child under the age of 21
- the dependent parent of a relevant EEA citizen who is aged under 18

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

- the applicant has not been absent from the UK and Islands 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 revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

For further information on how to consider an application that meets any of these requirements for ILE or ILR, please see consideration of applications for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) below.
Continuous qualifying period of less than 5 years

A family member of a relevant EEA citizen, or a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, who, at the date of application and in an application made by the required date, has completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, and who does not qualify under one of the routes to ILR or ILE for those who have completed such a continuous qualifying period of less than 5 years, will be eligible for 5 years’ limited leave to enter or limited leave to remain (LTE or 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 enter (LTE) or remain (LTR).

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Appendix EU to the Immigration Rules
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Eligibility: joining family members of a relevant sponsor

Who can apply as a joining family member of a relevant sponsor?

The following European Economic Area (EEA) citizen or non-EEA citizen family members of an EEA citizen who is a relevant sponsor may be eligible to apply as a joining family member of a relevant sponsor:

- **spouse**, where both:
  - the marriage was contracted before the specified date or the applicant was the durable partner of the relevant sponsor before the specified date (the definition of ‘durable partner’ in Annex 1 to Appendix EU being met before that date rather than at the date of application) and the partnership remained durable at the specified date
  - the marriage continues to exist at the date of application, unless the applicant relies on meeting condition 1 of paragraph EU11A of Appendix EU (and if they do, the marriage existed for the relevant period), or on meeting condition 3 of paragraph EU11A (and if they do, the marriage existed immediately before the death of the relevant sponsor) or on being a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor

- **civil partner**, where both:
  - the civil partnership was formed before the specified date or the applicant was the durable partner of the relevant sponsor before the specified date (the definition of ‘durable partner’ in Annex 1 to Appendix EU being met before that date rather than at the date of application) and the partnership remained durable at the specified date
  - the civil partnership continues to exist at the date of application, unless the applicant relies on meeting condition 1 of paragraph EU11A of Appendix EU (and if they do, the civil partnership existed for the relevant period), or on meeting condition 3 of paragraph EU11A (and if they do, the civil partnership existed immediately before the death of the relevant sponsor) or on being a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor

- **specified spouse or civil partner of a Swiss citizen**, where both:
  - the marriage was contracted or the civil partnership was formed after the specified date and before 1 January 2026
  - the marriage or civil partnership continues to exist at the date of application, unless the applicant relies on meeting condition 1 of paragraph EU11A of Appendix EU (and if they do, the marriage or civil partnership existed for the relevant period), or on meeting condition 3 of paragraph EU11A (and if they do, the marriage or civil partnership existed immediately before the death of the relevant sponsor) or on being a family member who
has retained the right of residence by virtue of a relationship with a relevant sponsor

- **durable partner**, where both:
  - the partnership was formed and was durable before the specified date
  - the durable partnership remains durable at the date of application, unless the applicant relies on meeting condition 1 of paragraph EU11A of Appendix EU (and if they do, the durable partnership remained durable for the relevant period), or condition 3 of paragraph EU11A (and if they do, the durable partnership remained durable immediately before the death of the relevant sponsor) or on being a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor

- **child under 21 of the relevant sponsor or of the spouse or civil partner**, where the family relationship(s) existed before the specified date (unless the child, after that date, was born or was adopted in accordance with a relevant adoption decision or became a child within the meaning of that definition in Annex 1 to Appendix EU on the basis of one of sub-paragraphs (a)(iii) to (a)(xi)) and continue(s) to exist at the date of application (or did so for the period of residence relied upon)

- **dependent child over 21 of the relevant sponsor or of the spouse or civil partner**, where the family relationship(s) existed before the specified date (unless the child, after that date, was born or was adopted in accordance with a relevant adoption decision or became a child within the meaning of that definition in Annex 1 to Appendix EU on the basis of one of sub-paragraphs (a)(iii) to (a)(xi)) and continue(s) to exist at the date of application (or did so for the period of residence relied upon)

- **dependent parent of the relevant sponsor or of the spouse or civil partner**, where the family relationship(s) existed before the specified date and continue(s) to exist at the date of application (or did so for the period of residence relied upon)

In addition, the applicant must meet one of the following requirements:

- under sub-paragraph (a) (where sub-paragraph (c) or (d) as described below does not apply), they were not resident in the UK and Islands on a basis which met the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU (where that relevant EEA citizen is their relevant sponsor) at any time before the specified date

- under sub-paragraph (b) (where sub-paragraph (c) or (d) as described below does not apply), they were resident in the UK and Islands before the specified date, and either:
  - one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of ‘continuous qualifying period’ in Annex 1 to Appendix EU has occurred, and after that event occurred they were not resident in the UK and Islands again before the specified date
  - the event referred to in sub-paragraph (a) in the definition of ‘supervening event’ in Annex 1 to Appendix EU has occurred, and after that event occurred they were not resident in the UK and Islands again before the specified date
o they are the specified spouse or civil partner of a Swiss citizen, and they do not rely on any period of residence in the UK and Islands before the marriage was contracted or the civil partnership was formed

• under sub-paragraph (c) (where sub-paragraph (d) as described below does not apply), where the person is a child born after the specified date or adopted after that date in accordance with a relevant adoption decision, or after the specified date became a child within the definition in Annex 1 to Appendix EU on the basis of one of sub-paragraphs (a)(iii) to (a)(xi) of that entry (with the references below to ‘parents’ construed to include the guardian or other person to whom the order or other provision referred to in the relevant sub-paragraph of (a)(iii) to (a)(xi) of that entry relates), one of the following requirements is met:
  o both of their parents are a relevant sponsor
  o one of their parents is a relevant sponsor and the other is a British citizen who is not a relevant sponsor
  o one of their parents is a relevant sponsor who has sole or joint rights of custody of them, in accordance with the applicable rules of family law of the UK, of the Islands or of an EEA country or Switzerland (including applicable rules of private international law under which rights of custody under the law of a third country are recognised in the UK, in the Islands or in an EEA country or Switzerland, in particular as regards the best interests of the child, and without prejudice to the normal operation of such applicable rules of private international law)

• under sub-paragraph (d), where the person is a child born after the specified date to (or adopted after that date in accordance with a relevant adoption decision by or after that date became, within the meaning of the entry for ‘child’ in Annex 1 to Appendix EU and on the basis of one of sub-paragraphs (a)(iii) to (a)(xi) of that entry, a child of) a Swiss citizen or their spouse or civil partner (as described above in relation to sub-paragraph (a)), the Swiss citizen or their spouse or civil partner is a relevant sponsor

Relevant sponsor

Where the date of application is after the specified date and before 1 July 2021, a relevant sponsor is either:

• an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted either:
  o indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
  o limited leave to enter or remain under paragraph EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
• an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) either:
  o resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o having been resident in the UK and Islands as described above, would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• an EEA citizen (in accordance with sub-paragraph (b) of that definition in Annex 1 to Appendix EU): a relevant naturalised British citizen, in accordance with sub-paragraph (a) or (b), together with sub-paragraphs (c) and (d), of that definition in Annex 1
• an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU): a relevant person of Northern Ireland, in accordance with that definition in Annex 1 to Appendix EU, either:
  o resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o is an Irish citizen who, having been resident in the UK and Islands as described above, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under this Appendix before 1 July 2021
  o who is a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands as described above, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• a person exempt from immigration control either:
  o resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o having been resident in the UK and Islands as described above, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• a frontier worker, in accordance with that definition in Annex 1 to Appendix EU

In addition, save for the purposes of condition 3 in the table in paragraph EU11A of Appendix EU and of sub-paragraphs (a) and (b) of the definition of ‘family member who has retained the right of residence’ in Annex 1 to Appendix EU, the relevant sponsor must not have died.
Not in the UK as a visitor

Where the application is made within the UK, then, to meet the eligibility requirements for indefinite leave to remain (under rule EU11A) or limited leave to remain (under rule EU14A) as a joining family member of a relevant sponsor, the applicant must not be in the UK as a ‘visitor’, in accordance with that definition in Annex 1 to Appendix EU.

This means that the applicant has not been granted leave under paragraphs 40-56Z, 75A-M or 82-87 of the Immigration Rules in force before 24 April 2015 or Appendix V on or after 24 April 2015 or Appendix V: Visitor after 9am on 1 December 2020, or a person to whom article 4 or 6 of the Immigration (Control of Entry through Republic of Ireland) Order 1972 applies, unless (in either case):

- they are the spouse or civil partner of a relevant sponsor (as described in sub-paragraph (a)(i)(bb) of the definition of ‘joining family member of a relevant sponsor’ in Annex 1 to Appendix EU): the applicant was the durable partner of the relevant sponsor before the specified date – the definition of ‘durable partner’ in Annex 1 to Appendix EU being met before that date rather than at the date of application – and the partnership remained durable at the specified date, or they are the specified spouse or civil partner of a Swiss citizen
- their leave permitted them to marry or form a civil partnership in the UK with that relevant sponsor or with that Swiss citizen and they did so

Continuous qualifying period of 5 years

In an application made after the specified date and by the required date, an applicant will be eligible for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) under the scheme, as the joining family member of a relevant sponsor (or as a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor) under condition 1 in rule EU11A, where at the date of application:

- you are satisfied, including by the required evidence of family relationship, that the applicant is the joining family member of a relevant sponsor (see assessing family relationship)
- they have completed a continuous qualifying period of residence in the UK and Islands of 5 years which began after the specified date as such a joining family member (or as a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, or in any combination of those categories)
- since completing that 5 year period, they have not been absent from the UK and Islands for a period of more than 5 consecutive years
- since completing that 5 year period, none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
o 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)

o an exclusion decision

o a deportation order, other than by virtue of the EEA Regulations

o an Islands deportation order

o an Islands exclusion decision

Where the applicant has completed a continuous qualifying period of residence in the UK and Islands of 5 years as the joining family member of a relevant sponsor (or as a family member who has retained the right of residence by virtue of their relationship with a relevant sponsor), the family relationship or the period in which they retained a right of residence by virtue of that relationship, may be in the past; it does not need to remain extant at the date of application.

**Child under the age of 21**

In an application made after the specified date and by the required date, a child under the age of 21 will be eligible for ILE or ILR under the scheme under condition 4 in rule EU11A, including where they have completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began after the specified date, where, at the date of application, you are satisfied, including by the required evidence of family relationship, that they are the joining family member of a relevant sponsor and, where the date of application is before 1 July 2021, either:

- they are a child under the age of 21 of a relevant sponsor (see [assessing family relationship](#)), and the relevant sponsor is:
  - an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
  - an Irish citizen who has not made a valid application under Appendix EU and who is an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having resident in the UK and Islands for a continuous qualifying period which began before the specified date, would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  - an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU): a relevant person of Northern Ireland, in accordance with that definition in Annex 1 to Appendix EU, who is an Irish citizen who, having been resident in the UK and Islands for a continuous
qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU): a relevant person of Northern Ireland, in accordance with that definition in Annex 1 to Appendix EU, who is a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- a person exempt from immigration control who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- a relevant naturalised British citizen, in accordance with sub-paragraphs (b), (c) and (d), of that definition in Annex 1 to Appendix EU
  - they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
    - meets the requirements of sub-paragraph (a) of the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU, substituting ‘relevant sponsor’ for each reference in that sub-paragraph to ‘relevant EEA citizen’
    - has been or is being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU
  - they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
    - meets the requirements of the first sub-paragraph (a), together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii), of the definition of ‘joining family member of a relevant sponsor’ in Annex 1 to Appendix EU
    - has been or is being granted indefinite leave to enter or remain under paragraph EU2A of Appendix EU

The relevant sponsor has ceased activity

In an application made after the specified date and by the required date, an applicant will be eligible for ILE or ILR under the scheme – as the joining family member of a
relevant sponsor who has ceased activity, under condition 2 in rule EU11A – having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began after the specified date and, where the date of application is before 1 July 2021, where the relevant sponsor is either:

- an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU if they made a valid application under Appendix EU before 1 July 2021
- an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU): a relevant person of Northern Ireland, in accordance with that definition in Annex 1 to Appendix EU, and either:
  - an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  - a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- a person exempt from immigration control, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- a relevant naturalised British citizen, in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU

and both:

- you are satisfied, including by the required evidence of family relationship, that the applicant was a joining family member of the relevant sponsor at the point at which the relevant sponsor became a person who has ceased activity (see assessing family relationship)
• immediately before the relevant sponsor became a person who has ceased activity, the applicant was resident in the UK and Islands for a continuous qualifying period which began after the specified date

And, in addition, you are satisfied that the relevant sponsor is a person who has ceased activity because one of the following applies:

• the relevant sponsor 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 both:
  o been a worker or self-employed person in the UK for at least the preceding 12 months
  o resided in the UK and Islands for a continuous qualifying period of more than 3 years which began before the specified date
• the relevant sponsor stopped being a worker or self-employed person owing to permanent incapacity to work and either:
  o had resided in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which began before the specified date
  o 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
• the relevant sponsor resided in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which began before the specified date, immediately before becoming a worker or self-employed person in an EEA country or Switzerland (see: the countries listed in sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU), 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 first and second provisions above do not apply where you are satisfied that (including by the required evidence of family relationship) that the relevant sponsor is the spouse or civil partner of a British citizen.

And since the relevant sponsor became a person who has ceased activity, it is the case both that:

• the applicant has not been absent from the UK and Islands 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 revoked:
  o any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  o 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) (or the
equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)

- an exclusion decision
- a deportation order, other than by virtue of the EEA Regulations
- an Islands deportation order
- an Islands exclusion decision

**The relevant sponsor has died**

In an application made after the specified date and by the required date, an applicant will be eligible for ILE or ILR under the scheme – as the joining family member of a relevant sponsor who has died, under condition 3 in rule EU11A – having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began after the specified date, where the criteria in this section are met.

To be eligible for ILE or ILR as a joining family member of a relevant sponsor who has died, all the following must be met:

- you are satisfied, including by the required evidence of family relationship, that the applicant is a joining family member of a relevant sponsor (see assessing family relationship) and the relevant sponsor has died
- the relevant sponsor must have been resident in the UK as a worker or self-employed person (within the meaning of the EEA Regulations) at the time of their death
- the relevant sponsor must have been resident in the UK and Islands for a continuous qualifying period of at least 2 years which began before the specified date, immediately before dying, or the death must have been the result of an accident at work or an occupational disease
- the applicant must have been resident in the UK with the relevant sponsor after the specified date and immediately before their death
- since the death of the relevant sponsor, the applicant must not have been absent from the UK and Islands for a period of more than 5 consecutive years
- since the death of the relevant sponsor, none of the following events must have occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision
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 sponsor, they will be eligible for ILE or ILR, under condition 1 in rule EU11A, on the basis of having completed a continuous qualifying period of residence in the UK and Islands of 5 years which began after the specified date, as such a family member where the criteria in this section are met (or, prior to that, as a joining family member of a relevant sponsor, or in any combination of those categories).

You must also be satisfied that since satisfying those criteria, the ‘required continuity of residence’ has been maintained by the applicant. This means that, where the applicant has not completed a continuous qualifying period of five years (and does not have valid evidence of their indefinite leave to enter or remain, and has not acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man), then, since the point at which (where they do so) they began to rely on being in the UK and Islands as a family member who has retained the right of residence and while they continued to do so, one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of ‘continuous qualifying period’ in Annex 1 to Appendix EU has not occurred.

To be eligible to apply for ILE or ILR as a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, on the basis of having completed a continuous qualifying period of residence in the UK and Islands of 5 years which began after the specified date (as set out above), you must be satisfied, including by the required evidence of family relationship (see assessing family relationship), that, at the date of application and in an application made by the required date, the applicant both:

- is an EEA or non-EEA citizen who was the joining family member of a relevant sponsor and that person died
- was resident in the UK as the joining family member of that relevant sponsor for a continuous qualifying period of at least a year which began after the specified date, immediately before the death of that person

Or that the applicant is either:

- an EEA or non-EEA citizen who is the child of a relevant sponsor who has died, or of their spouse or civil partner immediately before their death
- an EEA or non-EEA citizen who is the child of a person who ceased to be a relevant sponsor on ceasing to reside in the UK, or of their spouse or civil partner at that point
And, in either of the 2 bullet points immediately above, the child must have been attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant sponsor died or ceased to be a relevant sponsor on ceasing to reside in the UK, and the child must continue to attend such a course.

Or that all the following are met:

- the applicant is an EEA or non-EEA citizen who has ceased to be a joining family member of a relevant sponsor on the termination of the marriage or civil partnership of that relevant sponsor – and, for these purposes, where, after the initiation of the proceedings for that termination, that relevant sponsor ceased to be a relevant sponsor, they will be deemed to have remained a relevant sponsor until that termination
- the applicant was resident in the UK at the date of the termination of the marriage or civil partnership
- the applicant meets 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 during its duration the parties to the marriage or civil partnership had been resident in the UK for a continuous qualifying period of at least one year which began before the specified date
  - the applicant has custody of a child of the relevant sponsor
  - the applicant has the right of access to a child of the relevant sponsor, 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

Or that the applicant both:

- is an EEA or non-EEA citizen who provides evidence that a relevant family relationship with a relevant sponsor has broken down permanently as a result of domestic violence or abuse
- was resident in the UK when the relevant family relationship broke down permanently as a result of domestic violence or abuse, and the continued right of residence in the UK of the applicant is warranted where the applicant or another family member has been a victim of domestic violence or abuse before the relevant family relationship broke down permanently

'Relevant family relationship’ means here a family relationship with a relevant sponsor such that the applicant is, or (immediately before the relevant family relationship broke down permanently as a result of domestic violence or abuse) was, a joining family member of a relevant sponsor. Where, following the permanent breakdown of the relevant family relationship as a result of domestic violence or
abuse, the applicant remains a joining family member of a relevant sponsor, they will be deemed to have ceased to be such a family member for the purposes of Appendix EU once the permanent breakdown occurred.

Where the applicant is applying on the basis that their continued right of residence in the UK is warranted where they or another family member have been a victim of domestic violence or abuse before the relevant family relationship broke down permanently, the applicant does not need to provide evidence which satisfies you that they remain dependent on the relevant sponsor or (where relevant) on the spouse or civil partner, if the applicant is either:

- a child aged 21 or over of a relevant sponsor (or of their spouse or civil partner) and was not previously granted limited leave to enter or remain under Appendix EU (or under its equivalent in the Islands) as a child under the age of 21
- the dependent parent of a relevant sponsor who is aged under 18

And, in any case, to be eligible for ILE or ILR on the basis of a continuous qualifying period of 5 years which began after the specified date, including as a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, then since completing that 5 year period both the following must apply:

- the applicant has not been absent from the UK and Islands 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 revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

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

Continuous qualifying period of less than 5 years

Where the application is made within the UK and the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU), and in an application made after the specified date and by the required date, a joining family member of a relevant
sponsor, or a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, will be eligible for 5 years’ limited leave to remain (LTR) under the condition in rule EU14A if they are not eligible for ILR under rule EU11A solely because, at the date of application, they have completed a continuous qualifying period of residence in the UK and Islands, which began after the specified date, of less than 5 years.

Where the application is made outside the UK, and in an application made after the specified date and by the required date, a joining family member of a relevant sponsor, or a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, who, at the date of application, is not eligible for ILE under rule EU11A, will be eligible for 5 years’ limited leave to enter (LTE) under the condition in rule EU14A.

For further information on how to consider an application that meets these requirements please see consideration of applications - limited leave to enter (LTE) or remain (LTR).

**Related content**

Contents

**Related external links**

Appendix EU to the Immigration Rules

Immigration (European Economic Area) Regulations 2016
Assessing family relationship

Where the applicant is a European Economic Area (EEA) citizen resident in the UK by 11pm GMT on 31 December 2020 as a family member of an EEA citizen also resident here by 11pm GMT on 31 December 2020, the applicant will be able to rely on their own continuity of residence as a relevant EEA citizen to apply for status. They will not need to provide evidence of their family relationship to that EEA citizen unless:

- they are relying on that relationship in one of the categories eligible for settled status having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years
- they are applying as a child under the age of 21 of a relevant EEA citizen (or of their spouse or civil partner) under condition 7 of rule EU11
- they are applying as a family member of a relevant person of Northern Ireland
- they are applying as a family member of a relevant person of Northern Ireland
- they became an EEA citizen within a period of continuous residence in which they otherwise rely on having been a non-EEA citizen family member of an EEA citizen

Otherwise, the following family members of a relevant EEA citizen (or qualifying British citizen, under rules EU12 and EU14 of Appendix EU, or relevant sponsor under rules EU11A and EU14A) will be eligible to apply for status under the scheme on the basis of their relationship to that relevant EEA citizen (or qualifying British citizen or relevant sponsor). 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 EEA citizen (or qualifying British citizen or relevant sponsor) and the marriage is recognised under the law of England and Wales, Scotland or Northern Ireland or of the Islands; 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 or the Islands 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 EEA citizen (or qualifying British citizen or relevant sponsor) or a valid document of record of a marriage recognised under the law of England and Wales, Scotland or Northern Ireland or of the Islands.
Where the marriage to the relevant EEA citizen (or the relevant sponsor) was contracted after the specified date and the applicant is not the specified spouse or civil partner of a Swiss citizen, they must also provide either:

- a relevant document as the durable partner of the relevant EEA citizen
- where the applicant is the joining family member of a relevant sponsor or relies on the relevant EEA citizen being a relevant person of Northern Ireland, evidence which satisfies you that the durable partnership was formed and was durable before the specified date

Where the marriage to the qualifying British citizen was contracted after the date and time of withdrawal, they must also provide evidence which satisfies you that the durable partnership was formed and was durable before the date and time of withdrawal.

**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 under any equivalent legislation in the Islands) or in a relationship registered overseas (entitled to be treated as a civil partnership under that Act or under any equivalent legislation in the Islands) with the relevant EEA citizen (or qualifying British citizen or relevant sponsor); it is (or for the relevant period was) not a civil partnership of convenience; and neither civil partner has (or for the relevant period had) another civil partner, a spouse or a durable partner with immigration status in the UK or the Islands 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 EEA citizen (or qualifying British citizen or relevant sponsor); a valid civil partnership certificate recognised under the law of England and Wales, Scotland or Northern Ireland or under any equivalent legislation in the Islands; or the valid overseas registration document for a relationship which is entitled to be treated as a civil partnership under the Civil Partnership Act 2004 or under any equivalent legislation in the Islands.

Where the civil partnership to the relevant EEA citizen (or the relevant sponsor) was formed after the specified date and the applicant is not the specified spouse or civil partner of a Swiss citizen, they must also provide either:

- a relevant document as the durable partner of the relevant EEA citizen
- where the applicant is the joining family member of a relevant sponsor or relies on the relevant EEA citizen being a relevant person of Northern Ireland, evidence which satisfies you that the durable partnership was formed and was durable before the specified date

Where the civil partnership to the qualifying British citizen was formed after the date and time of withdrawal, they must also provide evidence which satisfies you that the
durable partnership was formed and was durable before the date and time of withdrawal.

**Specified spouse or civil partner of a Swiss citizen**

The applicant meets the applicable requirements above as the spouse or civil partner of a relevant sponsor who is a national of Switzerland and not also a British citizen, and the marriage was contracted or the civil partnership was formed after the specified date and before 1 January 2026.

**Durable partner**

The applicant is (or for the relevant period was) in a durable relationship with the relevant EEA citizen (or qualifying British citizen or relevant sponsor), 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 or the Islands based on that person’s relationship with that durable partner.

**Resident in the UK by 11pm on 31 December 2020**

Where the applicant relies on being resident in the UK by 11pm on 31 December 2020 as the durable partner of the relevant EEA citizen (or qualifying British citizen) and does not 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 EEA citizen (or qualifying British citizen) for the period of residence relied upon, and evidence which satisfies you that the durable partnership remains durable at the date of application (or did so for the period of residence relied upon) - this evidence might, for example, take the form of:
  - evidence of cohabitation (such as 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 (such as tax returns, business contracts, investments)

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

Where the applicant is a durable partner of a relevant person of Northern Ireland, a relevant document means, in accordance with sub-paragraph (a)(i)(bb) of the
definition in Annex 1 to Appendix EU, other evidence which satisfies the Secretary of State of the same matters under Appendix EU concerning the relationship as a document to which sub-paragraph (a)(i)(aa) refers. For the purposes of this provision, where the Secretary of State is so satisfied, such evidence is deemed to be the equivalent of a document to which sub-paragraph (a)(i)(aa) refers.

Where the applicant applies for a relevant document (as described in sub-paragraph (a)(i)(aa) or (a)(ii) of that definition in Annex 1 to Appendix EU) as the durable partner of the relevant EEA citizen (or qualifying British citizen) before the specified date and their relevant document is issued on that basis after the specified date, they are deemed to have held the relevant document since immediately before the specified date.

Joining on or after 1 January 2021

Where the applicant is applying after the specified date as a joining family member who is the durable partner of a relevant sponsor (or of a qualifying British citizen), they can provide a relevant document as the durable partner of the relevant sponsor (or qualifying British citizen) for the period of residence relied upon, and evidence which satisfies you that the durable partnership remains durable at the date of application (or did so for the period of residence relied upon).

Otherwise, they must either:

- not have been resident in the UK and Islands as the durable partner of the relevant EEA citizen (where that relevant EEA citizen is their relevant sponsor) on a basis which met the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU (or as the durable partner of the qualifying British citizen), at (in either case) any time before the specified date, unless the reason why, in the former case, they were not so resident is that they did not hold a relevant document as the durable partner of a relevant EEA citizen for that period (where their relevant sponsor is that relevant EEA citizen) and they did not otherwise have a lawful basis of stay in the UK and Islands for that period - this means that a durable partner who did not hold a relevant document as the durable partner of a relevant EEA citizen (where their relevant sponsor is that relevant EEA citizen) for a period of residence in the UK and Islands before the specified date, and who did not otherwise have a lawful basis of stay in the UK and Islands for that period, is excluded from relying on this provision and cannot qualify as a joining family member on this basis
- have been resident in the UK and Islands before the specified date, but their continuous qualifying period was interrupted by one of the following events, after which they were not resident in the UK and Islands again before the specified date, either:
  - absence(s) from the UK and Islands which exceeded a total of six months in any 12-month period, unless the absence(s) fell within one or more of the specified exceptions
- The applicant served a sentence of imprisonment of any length in the UK and Islands
- Have been resident in the UK and Islands before the specified date, and the applicant has then been absent from the UK and Islands for a period of more than five 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 the right of permanent residence in the Islands through the application there of Section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man, or since they last completed a continuous qualifying period of five years) and, after that, they were not resident in the UK and Islands again before the specified date.

Where these criteria are met, you must be satisfied by evidence provided by the applicant that the partnership was formed and was durable before the specified date (or before the date and time of withdrawal, where the applicant relies on being the durable partner of a qualifying British citizen before that point), and that the durable partnership remains durable at the date of application (or did so for the period of residence relied upon).

The effect of the above provisions is that, where, at the specified date, a person was continuously resident in the UK and Islands as the durable partner of a relevant EEA citizen (where that relevant EEA citizen is their relevant sponsor) and did not hold a relevant document as that durable partner, they must (unless they otherwise had a lawful basis of stay in the UK and Islands for that period, for example as a student) break their continuity of residence in the UK and Islands before they can apply as a joining family member and the durable partner of the relevant sponsor. They can then rely on the evidence referred to in the previous paragraph.

**Civil partnership, durable partnership or marriage of convenience**

A civil partnership, durable partnership or marriage of convenience is defined as a civil partnership, durable partnership or marriage 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
- any criterion the party would otherwise have to meet in order to enjoy a right to enter or reside in the Islands under the Islands law
Child under the age of 21

Where they are under the age of 21, the applicant must be the direct descendant of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner, and this includes a grandchild or great-grandchild.

In addition, ‘child’ includes here (and, where appropriate, in the next section), as set out in sub-paragraphs (a)(i) to (a)(xi) of that entry in Annex 1 to Appendix EU:

- an adopted child (adopted in accordance with a ‘relevant adoption decision’ as defined in Annex 1 to Appendix EU) of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child born through surrogacy (where recognised in UK law or Islands law) for the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- 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 the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom an order has been made under section 5 of the Children Act 1989 appointing as their guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- 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 the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- 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 the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- 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 EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child who has a guardian appointed under section 12 or 14 of the Children (Guernsey and Alderney) Law 2008 or section 12 or 13 of the Children (Sark) Law 2016, or who is living in the care of a person pursuant to an order made under section 14 of the 2008 Law or section 13 of the 2016 Law, and the guardian or other person is the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom an order under Article 7 of the Children (Jersey) Law 2002 is in force appointing as their guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom a special guardianship order (within the meaning of section 17A of the Children and Young Persons Act 2001 of Tynwald) has been
made appointing as their special guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner

• a child in respect of whom an order has been made under section 6 or 7 of the Children and Young Persons Act 2001 of Tynwald appointing as their guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner

It does not include a child cared for by the EEA citizen (or the qualifying British citizen or relevant sponsor) 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.

A ‘relevant adoption decision’ is defined in Annex 1 to Appendix EU as an adoption decision taken either:

• by the competent administrative authority or court in the UK or the Islands
• by the competent administrative authority or court in a country whose adoption orders are recognised by the UK or the Islands
• in a particular case in which that decision in another country has been recognised in the UK or the Islands as an adoption

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 EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner

Where such an applicant is applying on the basis that they are the child under the age of 21 of the spouse or civil partner of a relevant EEA citizen (or of a qualifying British citizen or relevant sponsor), you must also be satisfied that the marriage or civil partnership between the spouse or civil partner and the relevant EEA citizen (or the qualifying British citizen or relevant sponsor) continues to exist (or did so for the period of residence relied upon).

Where, in the case of a joining family member of a relevant sponsor, the applicant is a child born after the specified date or adopted after that date in accordance with a relevant adoption decision, or after the specified date became a child within the meaning of that definition in Annex 1 to Appendix EU on the basis of one of the
guardianship orders or equivalent in sub-paragraphs (a)(iii) to (a)(xi) of that entry, set out above (with the references below to ‘parents’ construed to include the guardian or other person to whom the order or other provision referred to in the relevant sub-paragraph of (a)(iii) to (a)(xi) of that entry relates), you must also be satisfied that one of the following requirements is met:

- both of the applicant’s parents are a relevant sponsor
- one of the applicant’s parents is a relevant sponsor and the other is a British citizen who is not a relevant sponsor
- one of the applicant’s parents is a relevant sponsor who has sole or joint rights of custody of them, in accordance with the applicable rules of family law of the UK, of the Islands or of an EEA country or Switzerland (including applicable rules of private international law under which rights of custody under the law of a third country are recognised in the UK, in the Islands or in an EEA country or Switzerland, in particular as regards the best interests of the child, and without prejudice to the normal operation of such applicable rules of private international law)

Where the person is a child born after the specified date to (or adopted after that date in accordance with a relevant adoption decision by or after that date became, within the meaning of the definition of ‘child’ in Annex 1 to Appendix EU and on the basis of one of sub-paragraphs (a)(iii) to (a)(xi) of that entry, a child of) a Swiss citizen or their spouse or civil partner (as described in the first sub-paragraph (a) in this entry), the Swiss citizen or their spouse or civil partner is a relevant sponsor. (Note that they cannot be the child of the specified spouse or civil partner of a Swiss citizen).

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

Child aged 21 or over

Where they are aged 21 or over, the applicant must be the direct descendant of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner, and this includes a grandchild or great-grandchild, and (unless the applicant was previously granted limited leave to enter or remain under Appendix EU, or its equivalent in the Islands, as a child under the age of 21) the applicant must be dependent on either:

- the relevant EEA citizen (or qualifying British citizen) or their spouse or civil partner at the date of application or, where the date of application is after the specified date, at the specified date
- the relevant sponsor or their spouse or civil partner at the date of application

‘Dependent’ means 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 EEA citizen (or qualifying British citizen or relevant sponsor) or of the spouse or civil partner
• such support is, or was, being provided to the applicant by the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or by the spouse or civil partner
• there is no need to determine the reasons for that dependence or for the recourse to that support

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 EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner

Where such an applicant is applying on the basis that they are the child aged 21 or over of the spouse or civil partner of a relevant EEA citizen (or of a qualifying British citizen or of a relevant sponsor), you must also be satisfied that the marriage or civil partnership between the spouse or civil partner and the relevant EEA citizen (or the qualifying British citizen or the relevant sponsor) continues to exist (or did so for the period of residence relied upon).

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 & Citizens’ Rights Unit for further advice.

Where the applicant was not previously granted limited leave to enter or remain under Appendix EU, or its equivalent in the Islands, as a child, they must also provide evidence which satisfies you that the applicant is (or for the relevant period or at the relevant time was) dependent on the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or on the spouse or civil partner. This evidence might take the form of for example:

• evidence of their financial dependency, such as bank statements or money transfers to the applicant from the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or the spouse or civil partner
• evidence that the applicant needs and receives (or for the relevant period did so) the personal care of the relevant EEA citizen (or qualifying British citizen or relevant sponsor), or of their spouse or civil partner, on serious health grounds, such as a letter from a hospital consultant
Dependent parent

The applicant must be the direct relative in the ascending line of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner, and includes a grandparent or great-grandparent and an adoptive parent of an adopted child.

Dependency

There is no requirement as to dependency where either:

- the applicant was previously granted limited leave to enter or remain under Appendix EU as a dependent parent, and that leave has not lapsed or been cancelled, curtailed or invalidated
- the spouse, civil partner or durable partner of the applicant (and with whom they reside) has been granted indefinite leave to enter or remain or limited leave to enter or remain under Appendix EU as a dependent parent of the relevant EEA citizen (or of the qualifying British citizen or of the relevant sponsor) or of their spouse or civil partner, and that indefinite or limited leave has not lapsed or been cancelled, curtailed, revoked or invalidated

In relation to the reference above to the spouse, civil partner or durable partner of the applicant, the entry for (as the case may be) ‘spouse’, ‘civil partner’ or ‘durable partner’ in Annex 1 to Appendix EU applies, except that in the applicable entry ‘applicant’ is to be substituted for ‘relevant EEA citizen’ and sub-paragraph (b) of the entry for ‘durable partner’ in Annex 1 is to be disregarded.

Otherwise, the applicant must be dependent on:

- the relevant EEA citizen or the qualifying British citizen (or on their spouse or civil partner) at the date of application (or, where the date of application is after the specified date, at the specified date) and:
  - where the relevant EEA citizen (or qualifying British citizen) is over the age of 18 at the date of application (or, where the date of application is after the specified date, at the specified date), the applicant’s dependency on the relevant EEA citizen (or qualifying British citizen), or on the spouse or civil partner, is assumed, and the applicant is not required to provide evidence of this
  - where the relevant EEA citizen (or qualifying British citizen) is under the age of 18 at the date of application (or, where the date of application is after the specified date, at the specified date), evidence of the applicant’s dependency on the relevant EEA citizen (or qualifying British citizen), or on the spouse or civil partner, must be provided
- the relevant sponsor (or on their spouse or civil partner) at the date of application and:
  - where the relevant sponsor is over the age of 18 and the date of application is before 1 July 2021, the applicant’s dependency on that relevant sponsor
or on the spouse or civil partner is assumed and the applicant is not required to provide evidence of this

- where the relevant sponsor is under the age of 18 years or the date of application is on or after 1 July 2021, evidence of the applicant’s dependency on the relevant sponsor or on the spouse or civil partner must be provided

‘Spouse or civil partner’ means (as the case may be) the person described in sub-paragraph (a)(i) or (a)(ii) of the entry for ‘family member of a qualifying British citizen’ in Annex 1 to Appendix EU, or in sub-paragraph (a) of the entry for ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU or in the first sub-paragraph (a) (together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii)) of the entry for ‘joining family member of a relevant sponsor’ in Annex 1 to Appendix EU.

‘Dependent’ means 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 EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner
- such support is or was, being provided by the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or by their spouse or civil partner
- there is no need to determine the reasons for that dependence or for the recourse to that support

Evidence of dependency might take the form of for example:

- evidence of their financial dependency, such as bank statements or money transfers to the applicant from the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or the spouse or civil partner
- evidence that the applicant needs and receives (or for the relevant period did so) the personal care of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) on serious health grounds, such as a letter from a hospital consultant

**Family relationship**

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 EEA citizen (or qualifying British citizen or relevant sponsor) or of the spouse or civil partner

Where such an applicant is applying on the basis that they are the dependent parent of the spouse or civil partner of a relevant EEA citizen (or of a qualifying British citizen or of a relevant sponsor), you must also be satisfied that the marriage or civil partnership between the spouse or civil partner and the relevant EEA citizen (or the qualifying British citizen) continues to exist (or did so for the period of residence relied upon).

**Dependent relative**

A dependent relative is defined in Annex 1 to Appendix EU as either:

- under sub-paragraph (a)(i), a relative (other than a spouse, civil partner, durable partner, child or dependent parent) of their sponsoring person, and the person is (or for the relevant period was) a dependant of the sponsoring person, a member of their household or in strict need of their personal care on serious health grounds
- under sub-paragraph (a)(ii), a ‘person who is subject to a non-adoptive legal guardianship order’ (as defined in Annex 1 to Appendix EU) in favour (solely or jointly with another party) of their sponsoring person
- under sub-paragraph (a)(iii), a person under the age of 18 years who either:
  - is the direct descendant of the durable partner of their sponsoring person
  - has been adopted by the durable partner of their sponsoring person, in accordance with a ‘relevant adoption decision’ (as defined in Annex 1 to Appendix EU)

An applicant (who is not a family member of a qualifying British citizen as described in sub-paragraph (a)(viii) of that entry in Annex 1 to Appendix EU, where you are satisfied that there are reasonable grounds for the person’s failure to meet the deadline to which that sub-paragraph refers) must hold a relevant document as the dependent relative of their sponsoring person for the period of residence relied upon and, unless this confirms the right of permanent residence in the UK under regulation 15 of the EEA Regulations (or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man), they must also provide evidence which satisfies you that the relationship and the dependency (or, as the case may be, their membership of the household or their strict need for personal care on serious health grounds) continue to exist at the date of application (or did so for the period of residence relied upon).

In the case of a family member of a qualifying British citizen as described in sub-paragraph (a)(viii) of that entry in Annex 1 to Appendix EU (where you are satisfied that there are reasonable grounds for the person’s failure to meet the deadline to which that sub-paragraph refers), the applicant must provide evidence which satisfies you that the relationship and the dependency (or, as the case may be, their membership of the household or their strict need for personal care on serious health grounds)
grounds) existed before the specified date and continue to exist at the date of application (or did so for the period of residence relied upon).

Where the applicant is a dependent relative of a relevant person of Northern Ireland, a relevant document means, in accordance with sub-paragraph (a)(i)(bb) of the definition in Annex 1 to Appendix EU, other evidence which satisfies the Secretary of State of the same matters under Appendix EU concerning the relationship and dependency as a document a document listed in sub-paragraph (a)(i)(aa). For the purposes of this provision, where the Secretary of State is so satisfied, such evidence is deemed to be the equivalent of a document to which sub-paragraph (a)(i)(aa) refers.

Where the applicant applies for a relevant document (as described in sub-paragraph (a)(i)(aa) or (a)(ii) of that definition in Annex 1 to Appendix EU) as the dependent relative of their sponsoring person before the specified date and their relevant document is issued on that basis after the specified date, they are deemed to have held the relevant document since immediately before the specified date.

Their ‘sponsoring person’ means:

- where the first sub-paragraph (a)(i) and the first sub-paragraph (b) of the definition of ‘dependent relative’ in Annex 1 to Appendix EU apply, either:
  - a relevant EEA citizen (in accordance with the definition in Annex 1) or their spouse or civil partner
  - a qualifying British citizen or their spouse or civil partner
- where the first sub-paragraph (a)(ii) and the first sub-paragraph (b), or the first sub-paragraph (a)(iii) and the first sub-paragraph (b), of the definition of ‘dependent relative’ in Annex 1 to Appendix EU apply, either:
  - a relevant EEA citizen (in accordance with the definition in Annex 1)
  - a qualifying British citizen

Where such an applicant is applying on the basis that they are the dependent relative of the spouse or civil partner of a relevant EEA citizen (or of a qualifying British citizen), you must be satisfied that the marriage or civil partnership between the spouse or civil partner and the relevant EEA citizen (or the qualifying British citizen) continues to exist (or did so for the period of residence relied upon).

A ‘person who is subject to a non-adoptive legal guardianship order’ is defined in Annex 1 to Appendix EU as a person who has satisfied the Secretary of State that, before the specified date, they:

- are under the age of 18 years
- are subject to a non-adoptive legal guardianship order in favour (solely or jointly with another party) of a relevant EEA citizen or of a qualifying British citizen (who is their ‘sponsoring person’ as described above) that:
  - is recognised under the national law of the state in which it was contracted
o places parental responsibility on a permanent basis on the relevant EEA citizen or on the qualifying British citizen (in either case, solely or jointly with another party)
- have lived with the relevant EEA citizen (or with the qualifying British citizen) since their placement under the guardianship order
- have created family life with the relevant EEA citizen (or with the qualifying British citizen)
- have a personal relationship with the relevant EEA citizen (or with the qualifying British citizen) that involves dependency on the relevant EEA citizen (or on the qualifying British citizen) and the assumption of parental responsibility, including legal and financial responsibilities, for that person by the relevant EEA citizen (or by the qualifying British citizen)

You may rely on the relevant document issued to the applicant on the basis that they are the dependent relative of their sponsoring person as evidence that these requirements have been met. Where the applicant does not hold a permanent residence document, they will also need to provide 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.

**Family members who hold pre-settled status based on dependency**

Rule EU4 of Appendix EU provides, in part, that where a person has been granted pre-settled status (limited leave to enter or remain under Appendix EU) as a child, dependent parent or dependent relative, they do not need to continue to meet the eligibility requirements for that leave which they met at the date of application where these related to their dependency, in order to retain their leave and remain eligible in due course for settled status (indefinite leave to enter or remain), where they apply on the basis of the same family relationship.

For example, where a person has been granted pre-settled status on the basis of being a dependent parent of a relevant EEA citizen, they will not lose this status before that limited leave to enter or remain expires solely because they cease to be dependent on the relevant EEA citizen, and they will remain eligible in due course for indefinite leave to enter or remain as a dependent parent of that relevant EEA citizen, where they apply on the basis of the same family relationship.

**Other evidence**

In addition to the criteria set out above, where the family member applying for status under the scheme is either:

- a non-EEA citizen without a documented right of permanent residence
- an EEA citizen without a documented right of permanent residence who relies on being (or for the relevant period on having been) a family member of a qualifying British citizen, a family member of a relevant EEA citizen, a family
member who has retained the right of residence or a joining family member of a relevant sponsor.

their application depends on their current or past family relationship to a relevant EEA citizen (or qualifying British citizen or relevant sponsor).

The applicant will need to provide proof of the identity and nationality of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) of whom the applicant is the family member (or was for the relevant period). This will be either:

- in the case of a relevant EEA citizen (who is not a relevant naturalised British citizen, a dual British and EEA citizen: McCarthy cases or relied on by the applicant as being a relevant person of Northern Ireland) or of a qualifying British citizen, or in the case of a relevant sponsor (who is not a relevant naturalised British citizen or relied on by the applicant as being a relevant person of Northern Ireland), their valid passport

- in the case of a relevant EEA citizen (who is not a relevant naturalised British citizen, a dual British and EEA citizen: McCarthy cases or relied on by the applicant as being a relevant person of Northern Ireland), or in the case of a relevant sponsor (who is not a relevant naturalised British citizen or relied on by the applicant as being a relevant person of Northern Ireland), their valid national identity card or confirmation that they have been or are being granted indefinite or limited leave to enter or remain under (as the case may be) paragraph EU2 or EU3 of Appendix EU

- in the case of a relevant EEA citizen who is a relevant naturalised British citizen or a dual British and EEA citizen: McCarthy cases, or of a relevant sponsor who is a relevant naturalised British citizen, their valid passport or valid national identity card as an EEA citizen, and information or evidence which is provided by the applicant, or is otherwise available to you, which satisfies you that the person is a British citizen

- in the case of a relevant EEA citizen (or relevant sponsor) who is relied on by the applicant as being a relevant person of Northern Ireland either:
  - (where they are a British citizen) information or evidence which is provided by the applicant, or is otherwise available to you, which satisfies you that the person is a British citizen
  - (where the person is an Irish citizen) their valid passport or their national identity card as an Irish citizen, or confirmation that they have been or are being granted indefinite or limited leave to enter or remain under (as the case may be) paragraph EU2 or EU3 of Appendix EU.

In either case, the applicant must also provide the ‘required evidence of being a person of Northern Ireland’ in respect of the person: see Family members of the people of Northern Ireland (below)

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

You can agree to accept alternative evidence of the identity and nationality of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) 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 EEA citizen (or qualifying British citizen or relevant sponsor), 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 having shown why it is not possible for them to do so. For guidance, see Alternative evidence of identity and nationality or of entitlement to apply from outside the UK.

Where the date of application is before 1 July 2021, the applicant will also need to provide evidence about the residence or status of the relevant EEA citizen (or about the residence of the qualifying British citizen or relevant sponsor) which satisfies you that either:

- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, that EEA citizen both:
  - is (or for the relevant period was) a relevant EEA citizen as described in sub-paragraph (a) in the definition in Annex 1 to Appendix EU – i.e. an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1) resident in the UK and Islands for a continuous qualifying period which began before the specified date
  - is (or was) such a relevant EEA citizen throughout any continuous qualifying period on which the applicant relies as being a family member of a relevant EEA citizen
- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (b) of the definition in Annex 1 to Appendix EU – i.e. an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
  - has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
  - would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a relevant naturalised British citizen, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (c) of that definition in Annex 1 to Appendix EU – such as a relevant naturalised British citizen
• where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a person who is a dual British and EEA citizen: McCarthy cases that EEA citizen is a relevant EEA citizen as described in sub-paragraph (d) of that definition in Annex 1 to Appendix EU – see Family member of a dual British and EEA citizen (McCarthy cases)

• where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a person of Northern Ireland, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (e) of that definition in Annex 1 to Appendix EU, with one of the following applying in respect of the relevant person of Northern Ireland:
  o they are (or were) resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o having been resident in the UK and Islands as described above and where they are an Irish citizen, they have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or are being granted that leave under that paragraph of this Appendix or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  o having been resident in the UK and Islands as described above and where they are a British citizen or a British citizen and an Irish citizen, they would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

• where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a person exempt from immigration control, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (f) of that definition in Annex 1 to Appendix EU, with one of the following applying in respect of the person exempt from immigration control:
  o they are (or for the relevant period were) resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o having been resident in the UK and Islands as described above, they would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

• where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a frontier worker, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (g) of that definition in Annex 1 to Appendix EU, with the frontier worker meeting (or for the relevant period having met) the requirements of the definition of ‘frontier worker’ in Annex 1 to Appendix EU

• where the applicant is (or for the relevant period was) a family member of a qualifying British citizen, that British citizen both:
  o is (or for the relevant period was) a qualifying British citizen
is (or was) a qualifying British citizen throughout any continuous qualifying period on which the applicant relies as being a family member of a qualifying British citizen

- where the applicant is (or for the relevant period was) a joining family member of a relevant sponsor, that relevant sponsor both:
  - is (or for the relevant period was) a relevant sponsor
  - is (or was) a relevant sponsor throughout any continuous qualifying period on which the applicant relies as being a joining family member of a relevant sponsor

Where, in order to meet the requirements of required evidence of identity and nationality and of residence or status for their family member, the applicant submits:

- a copy (and not the original) of a document (including by uploading this as part of the application process), you can require the applicant to submit the original document where you have reasonable doubt as to the authenticity of the copy submitted
- a document which is not in English, you can require the applicant to provide a certified English translation of (or a Multilingual Standard Form to accompany) the document, where this is necessary for the purposes of deciding whether the applicant meets the eligibility requirements for leave to be granted under the scheme

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.

A family member of a relevant EEA citizen (or qualifying British citizen or relevant sponsor) is able to apply under the EU Settlement Scheme from outside the UK where they are able to provide the required proof of entitlement to apply from outside the UK.

An EEA citizen or non-EEA citizen family member (other than a dependent relative of a relevant EEA citizen) who does not have the required proof of entitlement to apply from outside the UK (or does not wish to apply to the scheme from overseas) can apply for an EU Settlement Scheme Family Permit to join the relevant EEA citizen (or qualifying British citizen or relevant sponsor) in, or accompany them to, the UK, and will be able to apply to the scheme once in the UK, if they wish to remain here.

**Family members of the people of Northern Ireland**

In addition to the ‘other evidence’ section above – which is required where the family member applying for status under the scheme is either a non-EEA citizen without a documented right of permanent residence, or an EEA citizen without a documented right of permanent residence who relies, in this case, on being (or for the relevant period on having been) a family member of a relevant EEA citizen or a joining family member of a relevant sponsor – where such an applicant is a family member of a
relevant EEA citizen or relevant sponsor who is a relevant person of Northern Ireland, you will need to see, in respect of the relevant EEA citizen or relevant sponsor, the ‘required evidence of being a relevant person of Northern Ireland’ (as defined in Annex 1 to Appendix EU).

This means both:

- the person’s birth certificate showing that they were born in Northern Ireland, or their passport where this shows that they were born in Northern Ireland
- evidence which satisfies you that, at the time of the person’s birth, at least one of their parents was a British citizen, an Irish citizen, a British citizen and an Irish citizen, or otherwise entitled to reside in Northern Ireland without any restriction on their period of residence

You must see evidence of A and B below, and evidence of at least one of C, D or E. Non-exhaustive examples of the evidence which may be provided in respect of B, C, D and E are set out below.

If you are unsure whether the evidence provided is sufficient, you must discuss this with your senior caseworker who may refer to the European Migration & Citizens’ Rights Unit for further advice.

A. Evidence that the person was born in Northern Ireland

Either:

- the person’s birth certificate showing that they were born in Northern Ireland
- the person’s British or Irish passport, where this shows that they were born in Northern Ireland

B. Evidence of the person’s relationship to their parent

- the person’s birth certificate which names their parent and which both:
  - is linked to the person through a valid photographic identity document
  - was issued within 12 months of the person’s birth (if it was not, then the photographic identity document must be based on additional evidence to the birth certificate)

C. Evidence that one of the person’s parents was a British citizen at the time of the person’s birth

The most reliable evidence that a person’s parent was a British citizen at the time of the person’s birth will be the parent’s British passport which was valid at the time.

If this is not available, then you will need to see other evidence to satisfy you that one of the person’s parents was a British citizen at the time of the person’s birth. The parent may have become a British citizen at birth or they may have applied for British citizenship.
Whether or not the person’s parent was a British citizen at birth depends on the rules that were in force at the time. The types of evidence you need to see to establish that a person’s parent was a British citizen at birth are set out on pages 13 and 14 of British citizenship: automatic acquisition guidance and you must consider any evidence submitted by the applicant in line with that guidance.

If the person’s parent applied to become a British citizen, you can rely on Home Office records of naturalisation or registration as long as you are satisfied that the record relates to the parent. If you cannot locate a Home Office record, you will need to ask the applicant to provide the parent’s naturalisation certificate or registration certificate and a valid photographic identity document that links the parent to the certificate so you can be sure it belongs to them.

In all circumstances, if you are satisfied that the parent had British citizenship before the person’s birth, you must check that there is no record of British citizenship having been renounced or otherwise lost before that birth.

**D. Evidence that one of the person’s parents was an Irish citizen at the time of the person’s birth**

The most reliable evidence that a person’s parent was an Irish citizen at the time of the person’s birth will be the parent’s Irish passport which was valid at the time.

If this is not available, then you will need to see other evidence to satisfy you that one of the person’s parents was an Irish citizen at the time of the person’s birth. The parent may have become an Irish citizen at birth or they may have applied for Irish citizenship.

Whether or not the person’s parent was an Irish citizen at birth depends on the rules that were in force at the time. You can find information about this on the website of the Irish Government’s Department of Foreign Affairs and Trade at www.dfa.ie/citizenship.

If the person’s parent applied to become an Irish citizen, you will need to ask the applicant to provide the parent’s certificate of Irish citizenship and a valid photographic identity document that links the parent to the certificate so you can be sure it belongs to them.

In all circumstances, if there is information suggesting that the evidence provided may not be authentic or that Irish citizenship may have been renounced or otherwise lost before the child’s birth, you must make reasonable, relevant enquiries to establish whether, on the balance of probabilities, the parent was an Irish citizen at the time of the person’s birth. However, such enquiries do not need to be made if you are satisfied that the parent (or the person’s other parent) was a British citizen, or otherwise entitled to reside in Northern Ireland without any restriction on their period of residence, at the time of the person’s birth.
E. Evidence that one of the person’s parents was otherwise entitled to reside in Northern Ireland without any restriction on their period of residence at the time of the person’s birth

A person’s parent will have been otherwise entitled to reside in the UK without any restriction on their period of residence if they:

- had the right of abode in the UK
- had indefinite leave to enter or remain in the UK
- had a right of permanent residence in the UK under the EU Free Movement Directive – this applies if the person was born on or after 29 April 2006
- were a non-Irish EEA citizen and a self-employed person who had ceased activity or a family member of such a person, a family member of an EEA citizen who had died, or a person who had rights under Regulation EU 1251-70 (for example as a retired non-Irish EEA worker) – this applies if the person was born between 2 October 2000 and 28 April 2006
- were a citizen of a country that was in the EU or the EEA (other than Ireland) and they were exercising free movement rights in the UK – this applies if the person was born between 1 January 1973 and 1 October 2000

You can rely on Home Office records showing that the parent was entitled to reside in the UK (and therefore Northern Ireland) without any restriction on their period of residence at the time of the person’s birth as long as you are satisfied that the record relates to the parent.

If you cannot locate a Home Office record, you will need to ask the applicant to provide one of the following together with a valid photographic identity document that links the parent to the document so you can be sure it belongs to them:

- a UK passport describing the parent as a British subject with the right of abode
- the parent’s passport endorsed with a ‘certificate of entitlement’ which proves the holder had the right of abode
- a document issued under the Windrush Scheme
- the parent’s biometric residence permit or biometric residence card showing indefinite leave to enter or remain, or ‘no time limit’, under UK immigration law or a right of permanent residence under EU law which was valid at the time of the person’s birth
- an immigration officer’s stamp, which was valid at the time of the person’s birth, in the parent’s passport showing they had been given leave to enter for an indefinite period
- a Home Office stamp, which was valid at the time of the person’s birth, in the parent’s passport showing they had indefinite leave to remain in the UK or that there was no time limit on their stay here
- a UK residence permit affixed to the parent’s passport or immigration status document showing indefinite leave to enter or remain on ‘no time limit’
- a Home Office letter confirming that the parent had been granted indefinite leave to remain in the UK
• where the person was born between 2 October 2000 and 29 April 2006, evidence that the parent was either:
  o a non-Irish EEA citizen and a self-employed person who had ceased activity
    or a family member of such a person
  o a family member of a non-Irish EEA citizen who had died
  o a person who had rights under Regulation EU 1251-70 (for example as a
    retired non-Irish EEA worker)
• where the person was born between 1 January 1973 and 1 October 2000, evidence that the parent was a citizen of a country that was in the EU or the EEA (other than Ireland) and they were exercising free movement rights in the UK

Where one of the documents listed above is provided, you must arrange for authenticity checks, including assessing whether the document was issued during their relevant period of use by the UK authorities.

Further guidance about how to consider whether a person has or had indefinite leave to enter or remain can be found here: No time limit.

Where, in order to meet the requirements of ‘required evidence of being a relevant person of Northern Ireland, the applicant submits:

• a copy (and not the original) of a document (including by uploading this as part of the application process), you can require the applicant to submit the original document where you have reasonable doubt as to the authenticity of the copy submitted
• a document which is not in English, you can require the applicant to provide a certified English translation of (or a Multilingual Standard Form to accompany) the document, where this is necessary for the purposes of deciding whether the applicant meets the eligibility requirements for leave to be granted under the scheme

Family members of persons exempt from immigration control

In addition to the ‘other evidence’ section above – which is required where the family member applying for status under the scheme is either a non-EEA citizen without a documented right of permanent residence, or an EEA citizen without a documented right of permanent residence who relies, in this case, on being (or for the relevant period on having been) a family member of a relevant EEA citizen or a joining family member of a relevant sponsor – where such an applicant is a family member of a person exempt from immigration control, you will need, where the date of application is before 1 July 2021, both:

• to see evidence from the applicant or which is otherwise available to you that the relevant EEA citizen or relevant sponsor is (or for the relevant period was) exempt from immigration control in accordance with section 8(2), (3) or (4) of the Immigration Act 1971
• to be satisfied that the person exempt from immigration control is either:
  o resident in the UK and Islands for a continuous qualifying period which began before the specified date
  o a person who, having been resident in the UK and Islands as described above, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

A person exempt from immigration control is defined in Annex 1 to Appendix EU as a person who is:

• a national of an EEA country or Switzerland
• not a British citizen
• exempt from immigration control in accordance with section 8(2), (3) or (4) of the Immigration Act 1971

See Persons exempt from control for further guidance.

**Family members of frontier workers**

In addition to the ‘other evidence’ section above – which is required where the family member applying for status under the scheme is either a non-EEA citizen without a documented right of permanent residence, or an EEA citizen without a documented right of permanent residence who relies, in this case, on being (or for the relevant period on having been) a family member of a relevant EEA citizen or a joining family member of a relevant sponsor – where such an applicant is a family member of a frontier worker, you will need either:

• to see evidence from the applicant or which is otherwise available to you that the relevant EEA citizen or relevant sponsor holds a valid frontier worker permit issued under the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020
• to be satisfied by evidence provided by the applicant that the relevant EEA citizen or relevant sponsor fulfils the relevant conditions of being a frontier worker set out in the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020 and has done so continuously since the specified date

You also need to be satisfied, in either case, that the relevant EEA citizen or relevant sponsor has not been (and is not to be) refused admission to, or removed from, the UK by virtue of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020.

A frontier worker is defined in Annex 1 to Appendix EU as a person who:

• is a national of an EEA country or Switzerland
• is not a British citizen
• satisfies the Secretary of State by relevant evidence of this that they fulfil the relevant conditions of being a frontier worker set out in the Citizens’ Rights
(Frontier Workers) (EU Exit) Regulations 2020, and that they have done so continuously since the specified date

- has not been (and is not to be) refused admission to, or removed from, the UK by virtue of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020, and is not subject to a relevant restriction decision as defined by regulation 2 of those Regulations.

See Frontier worker permit scheme for guidance about how to consider whether a person qualifies for a frontier worker permit issued under the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020.

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Frontier worker permit scheme caseworker guidance
Applications in respect of children

Under section 55 of the Borders, Citizenship and Immigration 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 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.

A child does not need the consent of their parent or guardian to make an application under the EU Settlement Scheme.

However, where a child in the UK (who is under the age of 18) makes an application under the EU Settlement Scheme in their own right (such as where an application has not been made on their behalf by a parent or guardian) and which does not list a related application by a parent or guardian, you have a duty of care to carry out checks to ensure the safeguarding of that child.

It would normally be expected that an adult with responsibility for a child under the age of 18 would act on their behalf in respect of administrative matters, such as an immigration application. Therefore, in accordance with our section 55 duty and in line with the statutory guidance “Every Child Matters”, additional checks must be undertaken on any application under the scheme where a child under the age of 18 is applying without a parent or guardian to ensure that there are no obvious welfare concerns. This applies even where a child has provided sufficient evidence to be granted settled status or pre-settled status based on their own UK residence (for example, they have provided school letters confirming attendance for 5 years).

These checks do not affect eligibility for leave under the scheme and, where, on the basis of the application, status can be granted in accordance with Appendix EU, it must be. The purpose of these checks is solely to establish whether a child applicant has appropriate living arrangements and to ensure their overall safety and welfare.

Referral to Children’s Services or other agencies

In certain circumstances, a formal referral to Children’s Services or other agencies may be required, including for example where, in respect of a child under the age of 18, one or more of the following apply:

- the child appears to be living alone or to have no fixed abode
- the child is, or appears to be, being cared for as part of a non-local authority fostering arrangement
- the child may have been trafficked or is at risk of exploitation;
- the child may be at risk of harm or abuse in their current situation

You must refer to guidance on making child safeguarding referrals to local authorities.
Requesting further information or evidence

You may determine whether additional information, evidence or further checks are required by contacting the child to confirm their circumstances (where it is appropriate to do so, for example depending on the child’s age).

You must only request further information or evidence which is necessary to inform a decision as to whether any safeguarding referral needs to be made, and where the information or evidence does not appear from Home Office records to have been previously provided and/or where updating information is necessary to enable the Home Office to comply with its statutory duties.

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If the child’s living arrangements are not apparent from the information or evidence provided or otherwise available to you as part of the application or as a result of additional checks, you must establish the living arrangements for the child.

Where there is already some evidence provided or otherwise available to you as part of the application as to the child’s living arrangements, you must consider whether further information or evidence about these are needed and, if so, what is needed. Evidence which may be helpful in determining the living arrangements for the child (usually in combination) may include:

- proof of identity of the parent or guardian, such as a passport, national identity card or driving licence (if a document has expired, it may still satisfy you of the parent or guardian’s identity)
- evidence of relationship between the child and parent or guardian, such as a full birth certificate, adoption certificate, guardianship order
- proof of the parent’s or guardian’s address, such as a utility bill, bank statement or NHS medical card
- proof of the child’s address

The examples above are not prescriptive or exhaustive. It may be that the child does not themselves directly possess such evidence or that they are unable, due to estrangement or other welfare reasons, to approach the person who may possess
the relevant documentation. If so, alternative avenues, such as enquiries with the parent, guardian or other third parties, are to be pursued where possible.

**Enquiries with the parent, guardian or other third parties**

Depending on the age of the child, you may be able to get the information or evidence you need from the child themselves through additional enquiries. Otherwise, it may be necessary to speak to the parent or guardian or other third parties in order to obtain the relevant information or evidence.

Documentation is not the only source of information or evidence which may help in determining the living arrangements for the child. Enquiries with other third parties who have a formal relationship with the child, for example teachers or social or healthcare workers, may be helpful for clarification or confirmation.

Generally, if appropriate, the child is to be advised in advance of any enquiries which are to be carried out and who is to be contacted. You must also take account of any known parental issues such as mental or physical illness, parental separation or potential threats to the child (which may be the reason for them making the application without a parent or guardian).

If the child objects to you contacting their parent, guardian or other third parties, you must seek advice from your senior caseworker or the Office of the Children’s Champion.

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Making a referral

If you do not receive sufficient information or evidence to be satisfied that the applicant is being cared for by a parent or guardian and continue to have concerns about the child’s living arrangements in the UK, you must discuss the case with a senior caseworker, who will assess whether further enquiries are to be made or whether a referral is needed to the Children’s Services Department of the local authority where the child is living.

The Office of the Children’s Champion can also provide case advice if there are any welfare or safeguarding concerns that have emerged following contact with the child, parent or guardian or other third parties. Where you continue to have doubts about who is caring for a child in the UK, or the information provided by the child indicates that they may be at risk of harm, then a referral must be made to Children’s Services.

Where a child aged between 16 and 18 is living on their own, you must make further enquiries and, where appropriate, a referral, if you continue to have concerns about the child’s living arrangements in the UK. For example, if there are any indications that those living arrangements are not the child’s choice, the child has care or support needs or you suspect the child is otherwise at risk.

Deciding the application

The child’s application under the EU Settlement Scheme can generally be decided without undue delay, even where a referral to Children’s Services is required. Where the applicant has provided sufficient information and evidence to be granted settled status or pre-settled status, or such information and evidence is otherwise available, you must only consider delaying the decision if your enquiries have led you to believe there is reason to suspect that the child may be in need of protection or safeguarding and where concluding the case could put the child at continued or additional risk. For example, if there is reason to suspect that a child applying under the scheme may be a potential victim of modern slavery, you must consult your senior caseworker and refer to guidance contained in Victims of modern slavery which includes details on how to refer potential child victims of modern slavery to the National Referral Mechanism.
Applicants aged over 18 and under 21

Applicants who are aged 18 or over are not considered to be children for safeguarding purposes. Where an applicant aged 18 or over and under 21 has supplied sufficient evidence to be granted settled status or pre-settled status, or such information and evidence is otherwise available, it will not generally be necessary to request additional information or evidence relating to their parent or guardian or to safeguarding. However, if there are any indicators that the applicant is at risk (for example modern slavery or human trafficking), you must consult a senior caseworker and refer to guidance contained in Victims of modern slavery which includes details on how to refer potential victims of modern slavery to the National Referral Mechanism.

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Section 55 of the Borders, Citizenship and Immigration Act 2009
Victims of modern slavery
Applications in respect of adults with mental capacity issues and/or care or support needs

This section tells you about how to deal with applications in respect of adults with mental capacity issues (who lack the mental capacity to make their own decisions) and/or care or support needs. Adults with care or support needs may include many of those adults with mental capacity issues, but will also include those adults with broader care or support needs, such as those who may be residing in a residential care home, or receiving care and support services in their own home, with long-term physical or mental health needs or a disability.

Applications made on behalf of an adult with mental capacity issues and/or care or support needs

Some adult applicants with care or support needs may have been signposted to sources of support to assist them to make their application. These include the Settlement Resolution Centre, Assisted Digital and grant funded voluntary and community organisations.

Other adults with care or support needs, and adults with mental capacity issues, may need someone to make the application on their behalf. The Home Office can accept an application made on someone’s behalf by an appropriate third party in a range of circumstances.

Applications can be made on someone’s behalf by for example:

- a person with power of attorney for the applicant
- a deputy appointed by the Court of Protection in England and Wales
- a person with an intervention or guardianship order made in Scotland
- a controller appointed by an order made by the High Court in Northern Ireland
- a legal guardian
- another appropriate third party, for example, a friend, relative, carer, social worker, support worker or legal representative

If the person has the mental capacity to consent to an appropriate third party making an application on their behalf if they are unable to apply themselves, their consent must be sought.

If the person’s mental capacity fluctuates, then their consent must be sought, when they are able to give it, for an appropriate third party to make an application on their behalf if they are unable to apply themselves.
In all cases concerning lack of mental capacity, you must be satisfied that the person acting on behalf of the individual either or both:

- has the authority (in the general sense of permission or consent) to do so
- is acting in the best interests of the individual

in accordance (in both cases) with the Mental Capacity Act (England and Wales) 2005, the Mental Health Order (Northern Ireland) 1986 or the Enduring Powers of Attorney Order (Northern Ireland) 1987, or is acting for the benefit of the adult and following the best interpretation of the adult’s wishes under the Adults with Incapacity Act (Scotland) 2000.

For further guidance on dealing with applications made on behalf of adult applicants with mental capacity issues:

- under the Mental Capacity Act (England and Wales) 2005, see Make decisions on behalf of someone
- under the Adults with Incapacity Act (Scotland) 2000, see Adults with incapacity: guide to assessing capacity
- under the Enduring Powers of Attorney Order (Northern Ireland) 1987, see Managing your affairs and enduring power attorney
- under the Mental Health Order (Northern Ireland) 1986, see the statutory Code of Practice or Guidelines on the use of the Mental Health Order (NI) 1986

If there are any indicators that the applicant is at risk, for example of abuse, exploitation or modern slavery, then you must first consult your senior caseworker. A referral to the local authority adult safeguarding team may be required, or you may need to refer to the guidance on Victims of modern slavery which includes details on how to refer potential victims of modern slavery to the National Referral Mechanism.

Where you have any other concerns about the application, such as to why the applicant has not applied by themselves or whether the applicant is aware of the application, you must contact the applicant where appropriate, to check the relevant authorisation provided is genuine, before you deal with the application. If it is not appropriate to contact the applicant, which will depend on the specific circumstances of the case, then enquiries with the person making the application on behalf of the applicant are to be pursued where possible. If you still have concerns after making these enquiries, then you must consult your senior caseworker.

**Power of Attorney**

A Power of Attorney is a document that grants the holder (the attorney) power to make certain decisions on behalf of the person named in the document.

Someone who holds Power of Attorney for an individual may make any necessary application for immigration status (including under the EU Settlement Scheme) on their behalf as a result of the Power of Attorney or as a result of their general duty to
act in the best interests of the individual. In any given case, you must be satisfied that the person is acting within the scope of their decision-making powers by checking the terms of the Power of Attorney, which must be provided to support the application. For example, the Power of Attorney may grant the holder general authority to take possession and control of the affairs of the person named in the document.

There are different types of Power of Attorney according to the jurisdiction:

- in England and Wales, an attorney will be appointed under either a Lasting Power of Attorney (LPA) or an Enduring Power of Attorney (the forerunner of the LPA) – a person must be aged 18 or over to be able to make a Power of Attorney and have capacity to understand what they are doing when granting this
- in Scotland, there are three types of Power of Attorney, either Continuing, Welfare or Combined, which can be made by a person aged 16 or over with capacity
- in Northern Ireland, there is the Enduring Power of Attorney, which can be made by a person aged 18 or over with capacity

You must check with the relevant office in the UK (the Office of the Public Guardian in England and Wales, the Office of the Public Guardian in Scotland or the Office of Care and Protection in Northern Ireland) or the relevant issuing office abroad if you have doubts about the document, including its validity.

**Court appointed authorisations**

In cases where an individual has not made a Power of Attorney and now lacks the capacity to make decisions, arrangements may have been made to have a formal decision maker appointed by a court.

**England and Wales: Deputy appointed by the Court of Protection**

A deputy is authorised by the Court of Protection to make decisions on behalf of a person who lacks the mental capacity to make decisions for themselves and where there is no Power of Attorney already in place.

A deputy is usually a close relative or friend of the person who needs help making decisions. In other instances, a person can be engaged professionally to act as a deputy, for example, an accountant, solicitor or representative of the local authority.

Appointed deputies may make any necessary application for immigration status (including under the EU Settlement Scheme) on behalf of an individual as a result of a legal duty in their court order (e.g. property and financial affairs), or as a result of their general duty to act in the best interests of the individual. In either case, you must be satisfied that a deputy is acting within the scope of their decision-making powers by checking the terms of their court order, which must be provided to support
the application. For example, the deputy order may grant the holder general authority
to take possession and control of the affairs of the person lacking capacity.

Scotland: Guardian or Intervener appointed by the Sheriff Court

A guardianship order may cover all of the individual’s property and financial affairs
and personal welfare, including healthcare matters. A similar scope applies to
intervention orders, which are designed for actions with a specific end, as opposed
to ongoing powers granted in a guardianship order.

Northern Ireland: Controllers appointed by the Office of Care
and Protection

Controllers appointed by the Office of Care and Protection are authorised to
administer the financial affairs of individuals lacking capacity.

Legal guardianship

An application can be made on behalf of an applicant by their legal guardian. You
must be satisfied that there is evidence of a guardianship order in place.

Applications made by another appropriate third party

An application can be made on behalf of an adult applicant with mental capacity
issues and/or care or support needs by another appropriate third party, for example
a friend, relative, carer, social worker, support worker or legal representative. In each
case, you must be satisfied that the person acting on behalf of the individual is
authorised to do so and/or that they are acting in the best interests of the individual.

Evidence that may satisfy you of this may include:

- a letter from a doctor, health professional, social services department or
  solicitor confirming the circumstances
- a letter from the applicant themselves, authorising someone to act on their
  behalf
- evidence of a carer relationship where the third party is providing for the
  individual’s care needs, for example a Department for Work and Pensions letter
  confirming receipt of carer’s allowance

The third party must provide their contact details when prompted at the end of the
online application process or in the relevant section of the appropriate paper
application form.

The third party must upload a letter in the evidence section of the online application
form (or provide this with the appropriate paper application form) to inform the
caseworker of the individual’s circumstances, including the reasons why the
application is being made by a third party and their relationship to that individual. If
this is not uploaded or included with the application, you must request it from the third party.

The third party must also ensure they are acting appropriately according to the requirements of the Office of the Immigration Services Commissioner (OISC). OISC is the regulatory body for the provision of immigration advice.

Where advice or assistance is provided to an applicant by a friend or relative, who is not acting in a professional capacity, such advice and assistance does not require OISC regulation. Professionals such as carers, social workers or support workers can also provide technical assistance in completing the application without the need to be regulated by OISC, but they should ensure that they are not providing immigration advice. For example, they may provide assistance in completing and submitting the application form, by explaining what the form is asking for and entering the applicant's responses.

Further information about assistance that can be provided without the requirement for regulation can be found in OISC’s Immigration Assistance Document.

A legal representative must be regulated by OISC or another Designated Qualifying Regulator in order to provide immigration advice or services related to the application.

Non-fee charging organisations that wish to be able to provide immigration advice and services regarding the EUSS may apply for regulation to OISC through a specific application process which will allow them to become regulated in this area of work only. This application is free of charge. Further details of this scheme can be found on the OISC website at: Application for Level 1 EU Settlement Scheme registration.

Further details on the application process for organisations that intend to charge applicants for assistance with an EUSS application can be found on the OISC website at: How to become a regulated immigration adviser

Related content

Related external links
Grant funded voluntary and community organisations
Mental Capacity Act 2005
Adults with Incapacity Act (Scotland) 2000
Mental Health Order (Northern Ireland) 1986
Make decisions on behalf of someone
Adults with incapacity: guide to assessing capacity
Managing your affairs and enduring power attorney
Code of Practice for Mental Health Order (Northern Ireland) 1986
Guidelines on the use of the Mental Health Order (Northern Ireland) 1986
Office of the Public Guardian (OPG)
Suitability

Rules EU15, EU16 and EU17 of Appendix EU set out the basis on which an application under Appendix EU will or may be refused on suitability grounds.

The assessment of suitability must be conducted on a case by case basis and be based on the applicant’s personal conduct or circumstances in the UK and overseas, including whether they have any relevant prior criminal convictions, and whether they have been open and honest in their application.

Under rule EU15(1), an application under Appendix EU will be refused on grounds of suitability where, at the date of decision, the applicant is subject to:

- a ‘deportation order’ (as defined in Annex 1 to Appendix EU) or to a decision to make a deportation order
- an ‘exclusion order’ or ‘exclusion decision’ (as defined in Annex 1 to Appendix EU)

If one of the orders or decisions specified in rule EU15(1) applies in respect of the applicant at the date the decision on the application under the scheme is made, the application must be refused.

Under rule EU15(2), an application made under Appendix EU will be refused on grounds of suitability where the applicant’s presence in the UK is not conducive to the public good because of conduct committed after the specified date.

Under rule EU15(3), an application under Appendix EU may be refused on grounds of suitability where, at the date of decision, the applicant is subject to:

- an ‘Islands deportation order’ (as defined in Annex 1 to Appendix EU)
- an ‘Islands exclusion decision’ (as defined in Annex 1 to Appendix EU)

as made under the immigration laws of the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man.

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

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. There is no requirement to declare spent offences, cautions or alternatives to prosecution, for example fixed penalty notices for speeding.

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.

Applications are subject to a check against the Police National Computer (PNC, where the applicant is aged 10 or over) and the Warnings Index (WI).

Caseworkers can where appropriate consider evidence of criminality that they encounter on the PNC or WI even if that evidence was not declared by the applicant.

From information provided by the applicant and obtained from the PNC and/or WI, UK Visas and Immigration must conduct an initial assessment of suitability, to establish whether the application is to be referred to Immigration Enforcement (IE) for full case by case consideration of the individual’s conduct on:

- grounds of public policy, public security or public health as set out in the EEA Regulations, as saved where the conduct was committed before the specified date
- the ground it is not conducive to the public good where the conduct was committed after the specified date

If a decision is then made by IE that falls within rule EU15(1) or EU15(2) (such as a decision to deport or exclude the individual), the application under the scheme will be refused by IE. The refusal under the EUSS must include a public policy, public security or public health consideration if the decision by IE was made on non-conducive grounds for conduct committed before 2300 GMT on 31 December 2020.

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:

- EU16(a): it is proportionate to refuse the application where, 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 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 enter or remain or limited leave to enter or remain under the scheme
- EU16(b): it is proportionate to refuse the application where, the applicant is subject to a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights, and the date of application under Appendix EU is before 1 July 2021
• EU16(c): the applicant either:
  o has previously been refused admission to the UK in accordance with regulation 23(1) of the EEA Regulations
  o has previously been refused admission to the UK in accordance with regulation 12(1)(a) of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020
  o had indefinite or limited leave to enter or remain granted under Appendix EU (or limited leave to enter granted by virtue of having arrived in the UK with entry clearance that was granted under Appendix EU (Family Permit)) which was cancelled under paragraph 321B(b)(i) or 321B(b)(ii) of the Immigration Rules, under paragraph A3.1. or A3.2.(a) of Annex 3 to Appendix EU or under paragraph A3.3. or A3.4.(a) of Annex 3 to Appendix EU (Family Permit)

and (in either case) the refusal of the application is justified either:
  o in respect of the applicant’s conduct committed before the specified date, on grounds of public policy, public security or public health in accordance with regulation 27 of the EEA Regulations, irrespective of whether those Regulations apply to that person (except that in regulation 27 for “with a right of permanent residence under regulation 15” and “has a right of permanent residence under regulation 15” read “who meets the requirements of paragraph EU11, EU11A or EU12 of Appendix EU to the Immigration Rules”; and for “an EEA decision” read “a decision under paragraph EU16(c) of Appendix EU to the Immigration Rules”), and it is proportionate to refuse the application (taking into account the particular circumstances and facts of the case at the date of decision)
  o in respect of conduct committed after the specified date, on the ground that the decision is conducive to the public good

• EU16(d): it is proportionate to refuse the application where the applicant is a relevant excluded person (as defined in Annex 1 to Appendix EU) because of their conduct committed before the specified date and the Secretary of State is satisfied that the decision to refuse the application is justified on the grounds of public policy, public security or public health in accordance with regulation 27 of the EEA Regulations, irrespective of whether the EEA Regulations apply to that person (except that in regulation 27 for “with a right of permanent residence under regulation 15” and “has a right of permanent residence under regulation 15” read “who meets the requirements of paragraph EU11, EU11A or EU12 of Appendix EU to the Immigration Rules”; and for “an EEA decision” read “a decision under paragraph EU16(d) of Appendix EU to the Immigration Rules”)

• EU16(e): the applicant is a relevant excluded person because of conduct committed after the specified date

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 enter or remain or limited leave to enter or 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 enter or remain or limited leave to enter or 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.

You must not decide that an application falls to be refused under rule EU16(a) without first notifying the applicant in writing that you are thinking of refusing the application based on false or misleading information, representations or documents and setting out exactly what the allegation is in this regard, including making clear that it is your view that there has been dishonesty or deception. You must give the applicant a reasonable period in which to respond to the notification sent by letter or given in an interview. What is reasonable will depend on the circumstances, but in most cases 14 calendar days will be sufficient.

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 and the date of application under Appendix EU is before 1 July 2021.

A refusal on the basis of rule EU16(c) may only take place where the applicant has previously either:
- been refused admission under regulation 23(1) of the EEA Regulations (as saved)
- been refused admission to the UK under regulation 12(1)(a) of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020
- had previous leave granted under Appendix EU, or acquired by virtue of having arrived in the UK with entry clearance granted under Appendix EU (Family Permit), which in either case was cancelled:
  - under paragraph 321B(b)(i) or 321B(b)(ii) of the Immigration Rules
  - under paragraph A3.1. or A3.2.(a) of Annex 3 to Appendix EU
  - under paragraph A3.3. or A3.4.(a) of Annex 3 to Appendix EU (Family Permit)

The decision to refuse the application under rule EU16(c) must be justified on grounds of public policy, public security or public health in accordance with regulation 27 of the EEA Regulations, as saved, irrespective of whether they apply to the person, and must only be made where it is proportionate to do so, unless the conduct took place after the specified date in which case it must be justified on the grounds that the decision is conducive to the public good.

Rule EU16(d) and EU16(e) of Appendix EU are also discretionary provisions and provide for the refusal of an application where, at the date of the decision, the applicant is a ‘relevant excluded person’ as defined in Annex 1 to Appendix EU.

Rule EU16(d) applies where a person is a ‘relevant excluded person’ on the basis of conduct committed before the specified date. Under rule EU16(d), an application can only be refused where, additionally, refusing the application is justified and proportionate on the grounds of public policy, public security or public health.
Rule EU16(e) applies where a person is a ‘relevant excluded person’ because of conduct committed after the specified date.

A ‘relevant excluded person’ means a person:

- in respect of whom the Secretary of State has made a decision under Article 1F of the Refugee Convention to exclude the person from the Refugee Convention or under paragraph 339D of the Immigration Rules to exclude them from humanitarian protection.
- in respect of whom the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because there are reasonable grounds for regarding them as a danger to the security of the UK.
- who the Secretary of State considers to be a person in respect of whom either of the previous 2 would apply except that:
  - the person has not made a protection claim.
  - the person made a protection claim which has already been finally determined without reference to Article 1F of the Refugee Convention or paragraph 339D of the Immigration Rules.
- in respect of whom the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because, having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community of the UK.

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 revoked.

As noted in rule EU18, Annex 3 to Appendix EU applies in respect of the cancellation, curtailment and revocation of leave to enter or remain granted under Appendix EU.

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

Related content

Contents

Related external links

Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
EU Settlement Scheme: suitability requirements
Qualifying residence

Continuous qualifying period

Completing, as a relevant European Economic Area (EEA) citizen or their family member, a continuous qualifying period of residence in the UK and Islands (or in the UK, where this is the requirement in some scenarios involving a person who has ceased activity or a family member who has retained the right of residence) generally means that the applicant was resident in the UK and Islands (or, where applicable, the UK) before the specified date (except in the case of a joining family member of a relevant sponsor) and has not been absent from the UK and Islands (or, where applicable, 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.

This includes where the applicant has previously been granted limited leave to enter or remain under Appendix EU and is now seeking to rely upon having completed a continuous qualifying period of 5 years’ residence in order to be eligible for indefinite leave to enter or remain.

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
- any period of absence on a posting on Crown service or (as a spouse, civil partner, durable partner or child) accompanying a person on a posting on Crown service. See Crown servants and HM Forces personnel
- any period spent working in the UK marine area (as defined in section 42 of the Marine and Coastal Access Act 2009)
- any period of absence due directly to an order or decision to which sub-paragraph (b)(iii) of the definition of ‘continuous qualifying period’ in Annex 1 to Appendix EU refers (as described below), where that order or decision has been set aside or revoked
The continuous qualifying period must continue at the date of application, unless one of the exceptions set out in sub-paragraph (c) of the definition of 'continuous qualifying period' in Annex 1 to Appendix EU applies. These exceptions are that either:

- under sub-paragraph (c)(i), the continuous qualifying period is of at least 5 years' duration
- under sub-paragraph (c)(ii)(aa), the person acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations (or, where there are reasonable grounds for the person's failure to meet the deadline applicable to them in the entry for required date in Annex 1 to Appendix EU, would have acquired such a right had the EEA Regulations not been revoked), or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man
- under sub-paragraph (c)(ii)(bb)(aaa), the continuous qualifying period relates to a relevant EEA citizen, where, in relation to that EEA citizen, a family member applicant relies either:
  - in (i), for all or part of the continuous qualifying period of 5 years to which condition 3 in rule EU11 of Appendix EU refers (or, as the case may be, for part of the period to which sub-paragraph (b) of condition 3 in the table in paragraph EU12 refers), on having been a family member of a relevant EEA citizen
  - in (ii), on being or having been a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen provided (in any case) the continuous qualifying period relating to that relevant EEA citizen continued (unless sub-paragraph (c)(i), (c)(ii)(aa), (c)(iii) or (c)(iv) of the definition of 'continuous qualifying period’ in Annex 1 to Appendix EU applied to that relevant EEA citizen instead) either, as the case may be, throughout the continuous qualifying period the applicant relies on in (i) as having been a family member of a relevant EEA citizen or, as relied on in (ii), until the applicant became a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen
- under sub-paragraph (c)(ii)(bb)(bbb), the continuous qualifying period relates to a relevant sponsor, where, in relation to that relevant sponsor, a joining family member applicant relies for all or part of the continuous qualifying period of 5 years to which condition 1 in rule EU11A of Appendix EU refers on having been (or, as the case may be, relies for all or part of the continuous qualifying period to which the condition in rule EU14A of Appendix EU refers on being) a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, provided (in either case) the continuous qualifying period relating to that relevant sponsor continued (unless sub-paragraph (c)(i), (c)(ii)(aa), (c)(iii) or (c)(iv) of the definition of 'continuous qualifying period’ in Annex 1 to Appendix EU applied to that relevant sponsor instead) until the applicant became a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor
- under sub-paragraph (c)(iii), the person has valid indefinite leave to enter or remain granted under Appendix EU (or under its equivalent in the Islands)
• under sub-paragraph (c)(iv), there is valid evidence of their indefinite leave to enter or remain
• under sub-paragraph (c)(v), a relevant reference is concerned

Where the date of application is before 1 July 2021, a ‘relevant reference’ (to a continuous qualifying period completed in the past) means the reference to continuous qualifying period in either:

• condition 6 in the table in paragraph EU11 of Appendix EU
• condition 3 in the table in paragraph EU11A of Appendix EU
• sub-paragraph (d)(iii)(aa) of the entry for ‘family member who has retained the right of residence’ in Annex 1 to Appendix EU (as that reference applies to, as the case may be, the relevant EEA citizen, the qualifying British citizen or the relevant sponsor)

A continuous qualifying period is broken where the person served or is serving a sentence of imprisonment of any length in the UK and Islands (or, where applicable, the UK), unless the conviction which led to it has been overturned.

Under sub-paragraph (b)(iii) of the definition of ‘continuous qualifying period’ in Annex 1 to Appendix EU, a continuous qualifying period is also broken by any of the following in respect of the person, unless it has been set aside or revoked:

• any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
• 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) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
• an exclusion decision
• a deportation order, other than by virtue of the EEA Regulations
• an Islands deportation order
• an Islands exclusion decision

Once a person has completed a continuous qualifying period of residence in the UK and Islands of 5 years, they may rely on this in applying for settled status under the scheme (under condition 3 in rule EU11 or condition 1 in rule EU11A) where, since completing that 5 year period, there has been no ‘supervening event’. This means that, since completing that 5 year period, they have not been absent from the UK and Islands for more than 5 consecutive years and that none of the decisions or orders set out above has been made in respect of the person, unless it has been set aside or revoked.

Where the applicant served or is serving a sentence of imprisonment of any length in the UK and Islands, and where prior to that they have completed a continuous qualifying period of residence in the UK and Islands of less than 5 years (and the
person has not acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man, that continuous qualifying period is broken, and restarts from scratch on release (where release is before the specified date, where a continuous qualifying period which started before that date is required).

Where the continuous qualifying period of a relevant EEA citizen is broken and restarted in this way, this also breaks and restarts any continuous qualifying period of residence of less than 5 years on which their family member relies (where they have not acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands) as being a family member of a relevant EEA citizen.

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 either:

- acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations
- acquired the right of permanent residence in the Islands through the application there of section 7 of the Immigration Act 1988 or under the EEA Regulations of the Isle of Man
- completed a continuous qualifying period of residence in the UK and Islands of 5 years

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.

When assessing whether an applicant has a continuous qualifying period of residence in the UK, the applicant’s immigration status during the period of residence relied on, including whether they were at any point exempt from immigration control while resident in the UK (provided they are no longer exempt at the date of application), is immaterial: the test is whether all the relevant criteria set out in the definition of continuous qualifying period are met.

Where an applicant is granted settled status (indefinite leave to enter or remain under Appendix EU), their status will lapse when they have been absent from the UK and Islands for a period of more than 5 consecutive years (or of more than 4 consecutive years in the case of Swiss citizens and their family members). There are exceptions for those overseas on Crown service and those accompanying them.

Where an applicant is granted pre-settled status (limited leave to enter or remain under Appendix EU), their status will generally lapse when they have been absent from the UK and Islands for a period of more than 2 consecutive years. There are exceptions for those overseas on Crown service and those accompanying them.
Crown servants and HM Forces personnel

Where, before an overseas posting, the applicant was resident in the UK and Islands, their continuous qualifying period of residence can include either:

- any period of absence from the UK and Islands on a posting on Crown service
- any period of absence from the UK and Islands, as a spouse, civil partner, durable partner or child, accompanying an EEA citizen or a British citizen on a posting on Crown service

Crown service is defined under Annex 1 to Appendix EU as service as either:

- a member of HM Forces (as defined in the Armed Forces Act 2006)
- an employee of the UK Government, a Northern Ireland department, the Scottish Administration or the Welsh Government
- a permanent member of the British Council

Before considering whether the applicant’s time overseas should be counted towards their continuous qualifying period, you must first confirm that they were resident in the UK and Islands before the posting in the normal way (automated checks or alternative evidence of residence).

To evidence their time overseas, the applicant may provide for example a letter on official stationery from the Head or Deputy Head of Mission, the Head of Office, the Head of Establishment in their Unit, or the department’s Head of Human Resources, confirming:

- the start date of the overseas posting
- the end date of the overseas posting (if applicable)
- the period during which the spouse, civil partner, durable partner or child accompanied the Crown servant overseas (if applicable)

Crown Dependencies

Time spent in the Crown Dependencies – the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man (‘the Islands’ as defined in Annex 1 to Appendix EU) – can count towards any or all of the applicant’s continuous qualifying period of residence as a relevant EEA citizen or their family member, except under sub-paragraph (a)(ii) or (d)(iii)(aa) of the entry for ‘family member who has retained the right of residence’ in Annex 1 to Appendix EU or in sub-paragraph (c) of the entry for ‘person who has ceased activity’ in Annex 1 to Appendix EU or as a ‘person with a derivative right to reside’ or a ‘person with a Zambrano right to reside’ – where (in each case) the period of residence must be in the UK.

Automated checks of HM Revenue & Customs and Department for Work and Pensions data do not confirm residence in the Crown Dependencies and the applicant may provide other evidence which reflects that in the evidence of residence section of this guidance.
Overseas Territories

Time spent in Gibraltar or the other Overseas Territories does not count towards an applicant’s continuous qualifying period of residence, unless it is on Crown service or accompanying such a person (see above).

Automated checks

In applications by relevant EEA citizens and their family members in which the applicant provides their National Insurance number, automated checks – known as Application Programming Interface (API) – will be run against HM Revenue & Customs (HMRC) and certain Department for Work and Pensions (DWP) records to establish what those records tell us about the applicant’s residence in the UK.

Where these checks indicate that the applicant has been resident in the UK for a continuous qualifying period of 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 enter (ILE) or indefinite leave to remain (ILR).

Where these checks indicate that the applicant has been resident in the UK for a continuous qualifying period of less than 5 years, and the applicant confirms this (and does not claim to qualify for settled status on the basis of a continuous qualifying period of less than 5 years), 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 enter (LTE) or limited leave to remain (LTR).

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

See evidence of residence for further information on evidence which may be provided where automated checks do not confirm a continuous qualifying period of residence as claimed by the applicant.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Armed Forces Act 2006
Consideration of applications: ILE or ILR

An applicant who has made a valid application will be eligible for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) as a relevant European Economic Area (EEA) 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 enter (ILE) or indefinite leave to remain (ILR) holders
- applicant has completed a continuous qualifying period of 5 years
- a relevant EEA citizen who is a person who has ceased activity
- family member of a relevant EEA citizen who is a person who has ceased activity
- family member of a relevant EEA citizen who has died
- child under the age of 21 years of a relevant EEA citizen or of their spouse or civil partner

An applicant who has made a valid application will be eligible for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) as a family member of a relevant sponsor where you are satisfied (including, where applicable, by the required evidence of family relationship) one of the conditions of rule 11A of Appendix EU is met:

- joining family member of a relevant sponsor who has completed a continuous qualifying period of 5 years
- family member who has retained the right of residence by virtue of a relationship with a relevant sponsor who has completed a continuous qualifying period of 5 years
- joining family member of a relevant sponsor who is a person who has ceased activity
- joining family member of a relevant sponsor who has died
- joining family member who is a child under the age of 21 years of a relevant sponsor or of their spouse or civil partner

Official – sensitive: start of section

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Supervening event

A supervening event means that, at the date of application either:

- the applicant has been absent from the UK and Islands for a period of more than 5 consecutive years at any point since they last either:
  - acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations
  - acquired the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man
  - completed a continuous qualifying period of 5 years
- any of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under equivalent provisions of the EEA Regulations of the Isle of Man)
  - 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) (or the equivalent decision, subject to the equivalent qualification, under the Immigration (European Economic Area) Regulations of the Isle of Man)
    - an exclusion decision
    - a deportation order, other than by virtue of the EEA Regulations
    - an Islands deportation order
    - an Islands exclusion decision

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Permanent residence (PR) document holders

Under condition 1 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or 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 either:
  - a document certifying permanent residence or a permanent residence card under the EEA Regulations
  - a residence permit or residence document under the Immigration (European Economic Area) Order 1994 endorsed to show permission to remain in the UK indefinitely
- 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

Or you must be satisfied that at the date of application either:

- the person has been given notice in writing under paragraphs 256 to 257A of the Immigration Rules of the Bailiwick of Guernsey showing that they may remain indefinitely, and this notice has not been revoked or otherwise ceased to be effective
- the person has been issued by the relevant Minister with a document in accordance with paragraphs 255 to 258 of the Immigration Rules of the Bailiwick of Jersey in an appropriate form certifying permanent residence or a permanent residence card, and this document or card has not been revoked or otherwise ceased to be effective
- the person has been issued with a letter certifying permanent residence, or their passport has been stamped to that effect, under the Immigration (European Economic Area) Regulations of the Isle of Man, and this evidence has not been revoked, invalidated or cancelled

In addition, you must be satisfied that no supervening event has occurred.
Relevant evidence

The applicant must provide confirmation, via self-declaration within the required application process, that they have not been absent from the UK or Islands for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence as set out above.

As set out above, you must be satisfied that the applicant has the documented right of permanent residence.

If an applicant cannot provide the PR document (or its equivalent) or its reference number, for example because the number is damaged or obscured, or the document never had one, you must check Home Office records (or liaise with the Islands) 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 one of the decisions or orders in ‘supervening event’, 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 and Islands for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence as set out above, but it is identified during the caseworking process that this is not the case, the applicant is not eligible for ILE or ILR under this condition.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILE or 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 ILE or ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years’ limited leave to enter (LTE) or 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 or that a supervening event has occurred. Miss A will be eligible for ILE or ILR.

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 ILE or ILR.

Related content

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Related external links

Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
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 enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that they are a relevant European Economic Area (EEA) citizen, a family member of a relevant EEA citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, and there is valid evidence of their ILE or ILR.

Requirements

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

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

And:

- there is valid evidence of the applicant’s ILE or ILR

Relevant evidence

If the applicant is a family member of a relevant EEA citizen, see assessing family relationship for the relevant evidence of that.

If the applicant is a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, see a family member who has retained the right of residence for the relevant evidence of that.

You must be satisfied that there is valid evidence of the applicant’s ILE or ILR which means either:

- a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007, and also referred to as a 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 evidence or information available to you that the applicant has ILE or ILR in the UK or the Islands

And, in either case, the status has not lapsed (by an absence from the UK and Islands 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).
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 and Islands for a period of more than 2 consecutive years or been revoked or invalidated.

**Applicants unable to provide evidence of ILE or 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.

Applicants who claim to have an historical grant of ILE or 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 Scheme to have their status checked and documented. See GOV.UK for information on [undocumented Commonwealth citizens resident in the UK](https://www.gov.uk/).

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 and Islands 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.

**Decision**

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11. Otherwise, you must consider their eligibility for 5 years’ limited leave to enter (LTE) or limited leave to remain (LTR) under condition 1 in rule EU14.
Scenario 1

Mr C is the non-EEA citizen spouse of an EEA citizen and has applied on the basis of having previously been granted 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 EEA citizen. 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.

Scenario 2

Dr D, an EEA citizen, claims to have been granted ILR but states that she has lost the appropriate 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.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
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 enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that the applicant either:

- is a relevant European Economic Area (EEA) citizen
- is (or for the relevant period was) a family member of a relevant EEA citizen
- is (or for the relevant period was) a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen
- a person with a derivative right to reside
- a person with a Zambrano right to reside
- a person who had a derivative or Zambrano right to reside

And, in addition, both the following apply:

- the applicant 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 either:

- is a relevant EEA citizen
- is (or for the relevant period was) a family member of a relevant EEA citizen
- is (or for the relevant period was) a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen
- a person with a derivative right to reside
- a person with a Zambrano right to reside
- a person who had a derivative or Zambrano right to reside

And you must be satisfied that, at the date of application, the applicant has completed a continuous qualifying period of 5 years which began before the specified date in any, or any combination of, those categories.

Under rule EU13, the reference in condition 3 in rule EU11 to the applicant completing a continuous qualifying period of 5 years which began before the specified date can include a period during which the applicant was a family member of a qualifying British citizen or a family member who has retained the right of residence by virtue of a relationship with a qualifying British citizen before becoming (as the case may be) a relevant EEA citizen, a family member of a relevant EEA citizen (or thereafter a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen), a person with a derivative right to reside or a person with a Zambrano right to reside.
In addition, you must be satisfied that since then no supervening event has occurred.

**Relevant evidence**

If the applicant is (or, as the case may be, for the relevant period was) a family member of relevant EEA citizen, see assessing family relationship for the relevant evidence of that.

If the applicant is (or, as the case may be, for the relevant period was) a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, see a family member who has retained the right of residence for the relevant evidence of that.

If the application is made online and the applicant has a National Insurance number and provides this, automated checks will be undertaken with HMRC and DWP as part of the application process. This may provide evidence that the applicant has completed a continuous qualifying period of residence in the UK and Islands (or, where applicable, the UK) of 5 years which began before the specified date. See automated checks for further information.

Should these checks not provide sufficient evidence of the continuous qualifying period of residence in the UK and Islands (or, where applicable, the UK), the applicant will be invited by the application process to provide evidence that, when combined with any evidence supplied by the automated HMRC and DWP checks where these are conducted, confirms that they have completed a continuous qualifying period of residence in the UK and Islands (or, where applicable, the UK) of 5 years which began before the specified date. See evidence of residence for examples of evidence of residence an applicant may produce.

The applicant must also provide a self-declaration that since then they have not been absent from the UK and Islands for a period of more than 5 consecutive years.

**Decision**

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

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

**Scenario 1**

Professor E, a French citizen, 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.

Scenario 2

Mrs F is the Brazilian spouse of an Italian citizen. Relationship and relevant identities are confirmed. She claims that both she and her spouse have been resident in the UK since 2012. Home Office records show her spouse 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 spouse. There is no evidence of a supervening event. Mrs F is eligible for ILR.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
A relevant EEA citizen who has ceased activity

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

- the applicant is a relevant European Economic Area (EEA) 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 relevant EEA citizen.

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 the applicant became a person who has ceased activity, no supervening event has occurred.

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 was both:
  - a worker or self-employed person in the UK for at least 12 months
  - resident in the UK and Islands for a continuous qualifying period of more than 3 years which began before the specified date

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 EEA citizen is the spouse or civil partner of a British citizen. See assessing family relationship for the relevant evidence of that.

Relevant evidence

Evidence which may be relevant to the requirements above includes:
• evidence that the applicant was a worker or self-employed person in the UK immediately before they retired. For example, employer’s letter, wage slips, relevant information from HMRC, etc
• evidence of the applicant’s retirement. For example, a relevant HMRC form, letter from employer, pension statements
• unless the applicant is the spouse or civil partner of a British citizen, evidence of employment in the UK for at least 12 months immediately before retirement. For example, employer’s letter, wage slips, relevant information from HMRC
• unless the applicant is the spouse or civil partner or a British citizen, evidence that they were resident in the UK and Islands for a continuous qualifying period of more than 3 years which began before the specified date, immediately before retirement (either from the automated checks with HMRC and DWP or as provided by the applicant: see evidence of residence)
• a self-declaration that they have not been absent from the UK and Islands for a period of more than 5 consecutive years since they became a person who has ceased activity

Permanent incapacity

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

• stopped being a worker or self-employed person in the UK owing to permanent incapacity to work and either:
  o having been resident in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which began before the specified date
  o 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 EEA citizen is the spouse or civil partner of a British citizen. See assessing family relationship for the relevant evidence of that.

Relevant evidence

Evidence which may be relevant to the requirements above includes:

• evidence that the applicant was a worker or self-employed person in the UK - for example, employer’s letter, wage slips, relevant information from HMRC
• evidence of their permanent incapacity to work - for example, a letter from their hospital consultant
• unless the applicant is the spouse or civil partner of a British citizen, evidence that they were resident in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which began before the specified date (either from the automated checks with HMRC and DWP or as provided by the applicant: see evidence of residence)
Or evidence that:

- the permanent incapacity resulted from an accident at work or an occupational disease - for example, a letter from a hospital consultant - and confirmation, in the form for example of a letter or pension statements, that the accident at work or occupational disease entitles the applicant to a pension payable in full or in part by an institution in the UK
- a self-declaration that they have not been absent from the UK and Islands for a period of more than 5 consecutive years since they became a person who has ceased activity

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 resident in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which began before the specified date, immediately before becoming a worker or self-employed person in another EEA 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:

- 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

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence of having resided in the UK for a continuous qualifying period of at least 3 years which began before the specified date (either from the automated checks with HMRC and DWP or as provided by the applicant: see evidence of residence)
- evidence of having been a worker or self-employed person in the UK for that period of at least 3 years - for example, employer’s letter, pay slips, relevant information from HMRC
• evidence of becoming a worker or self-employed person in another EEA country immediately after leaving the UK. For example, employer’s letter or pay slips
• evidence of retaining a place of residence in the UK, for example, utility bills
• evidence that the applicant returns to this place of residence, as a rule, at least once a week, for example travel tickets
• a self-declaration that they have not been absent from the UK and Islands 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 above requirements, the applicant is eligible for ILE or ILR.

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

Scenario 1

Mr G, a 68 year old French citizen, became a retired worker in 2016. Automated checks from HMRC show that he was in employment in the UK for 3 years before retiring, and statements provided confirm he has been in receipt of a pension since 2016. There is no evidence of a supervening event. Mr G is eligible for ILR.

Scenario 2

Ms H, a German citizen, has been living in the UK since 2014. She was injured in an industrial accident in the UK and was unable to continue work. A letter from her hospital consultant confirms she is no longer able to work in any capacity and an employer’s letter confirms her pension is as claimed. Automated checks from HMRC confirm her period of work and she has declared that she has not left the UK since. There is no evidence of a supervening event. Ms H is eligible for ILR.

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 Austria 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 Austria. Professor J has also provided utility bills for her address in the UK from 2016 to the date of application, and her travel history showing that she
returns to the UK every weekend. There is no evidence of a supervening event. Professor J is eligible for ILR.

Related content

Related external links

Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Family member of a relevant EEA 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 enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that, at the date of application, the requirements below are met.

Requirements

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

- the applicant is (or for the relevant period was) a family member of a relevant European Economic Area (EEA) citizen who is a person who has ceased activity
- the applicant was such a family member at the point the EEA citizen became a person who has ceased activity

Where the date of application is before 1 July 2021, you must also be satisfied the relevant EEA citizen either:

- meets the requirements of sub-paragraph (b) of that definition in Annex 1 to Appendix EU – an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
  - has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under Appendix EU or under its equivalent in the Islands)
  - would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- (where the applicant is the family member (“F”) to whom paragraph 9 of Schedule 6 to the EEA Regulations refers and meets the criteria as F in that paragraph) is an EEA citizen in accordance with sub-paragraph (c) of the definition in Annex 1 to Appendix EU, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- is a relevant person of Northern Ireland and, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
  - where they are an Irish citizen, they have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its
equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  o where they are a British citizen or a British citizen and an Irish citizen, they would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• is a person exempt from immigration control, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
• is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU)

The applicant also needs to demonstrate that:

• they were resident in the UK and Islands for a continuous qualifying period which began before the specified date, immediately before the relevant EEA citizen became a person who has ceased activity
• since the relevant EEA citizen became a person who has ceased activity, no supervening event has occurred

Relevant evidence

Evidence which may be relevant to the requirements above includes:

• evidence that the applicant is (or for the relevant period was) the family member of a relevant EEA citizen. See assessing family relationship for the relevant evidence of that
• evidence that the relevant EEA citizen is a person who has ceased activity and that the applicant was their family member when they did so - see ceased activity for the relevant evidence of that
• evidence that the relevant EEA citizen either:
  o has been or is being granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) or (but for the fact, where they are, that they are a British citizen or a person exempt from immigration control) would be granted that leave under Appendix EU if they made a valid application under it before 1 July 2021 - for example, the relevant application reference number where they have applied under the scheme
  o is a relevant naturalised British citizen
• evidence that the applicant was resident in the UK and Islands for a continuous qualifying period which began before the specified date, immediately before the relevant EEA citizen became a person who has ceased activity
a self-declaration that the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years since the relevant EEA citizen became a person who has ceased activity

Decision

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11. Otherwise, you must consider their eligibility for 5 years’ LTE or LTR under condition 1 in rule EU14.

Scenario 1

Mrs K, a 60 year old Chinese citizen, has applied as the spouse of a Portuguese citizen who ceased activity in 2015. She has provided her marriage certificate and spouse’s passport, and documents that show that her spouse was in employment for 3 years before retiring. There is also evidence that the Portuguese spouse has been receiving a pension since 2015. There is no evidence of a supervening event. Mrs K is eligible for ILR.

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 Mr L’s Swedish spouse was previously granted ILR as an EEA citizen who has ceased activity. There is no evidence of a supervening event. Mr L is eligible for ILR.

Related content

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Related external links

Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Family member of a relevant EEA citizen who has died

Under condition 6 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that, at the date of application, the requirements below are met.

Requirements

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

- the applicant is a family member of a relevant European Economic Area (EEA) citizen who has died
- the applicant was resident in the UK with the relevant EEA citizen immediately before their death
- the relevant EEA citizen was resident in the UK as a worker or self-employed person at the time of their death
- the relevant EEA citizen was resident in the UK and Islands for a continuous qualifying period of at least 2 years which began before the specified date, immediately before dying, or the death was the result of an accident at work or an occupational disease
- no supervening event has occurred since the relevant EEA citizen died

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant was the family member of a relevant EEA citizen before that EEA citizen died - see assessing family relationship for the relevant evidence of that
- the death certificate of the relevant EEA citizen or other evidence you are satisfied evidences the death
- evidence that the relevant EEA citizen was resident in the UK as a worker or self-employed person at the time of their death - for example, employer’s letter, wage slips, relevant information from HMRC
- evidence that the relevant EEA citizen was resident in the UK and Islands for a continuous qualifying period of at least 2 years which began before the specified date, immediately before their death (see evidence of residence), 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)
- evidence that the applicant was resident in the UK with the relevant EEA citizen when they died
• a self-declaration by the applicant that they have not been absent from the UK and Islands for a period of more than 5 consecutive years since the relevant EEA citizen died

**Decision**

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11. Otherwise, you must consider their eligibility for 5 years’ LTE or 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 has provided evidence to show they had resided together in the UK continuously since they were married 13 years ago. 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.

**Scenario 2**

Dr N is a Brazilian citizen who was married to Mr N, a French citizen who had been residing and working in the UK for 6 years. Dr N has provided a death certificate and hospital consultant’s letter confirming Mr N died after contracting an occupational disease. Dr N has also 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.

**Related content**

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[Appendix EU to the Immigration Rules](#)

[Immigration (European Economic Area) Regulations 2016](#)
Child under the age of 21 of a relevant EEA citizen or of their spouse or civil partner

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

- the applicant is a family member of a relevant European Economic Area (EEA) citizen and is a child under the age of 21 of a relevant EEA citizen
- the applicant is a child under the age of 21 of the spouse or civil partner of a relevant EEA citizen, where the marriage was contracted before the specified date or where the person, who is now the spouse or civil partner of the relevant EEA citizen, was the durable partner of the relevant EEA citizen before the specified date and the partnership remained durable at the date

And, in addition, where the date of application is before 1 July 2021, the relevant EEA citizen (or the spouse or civil partner) either:

- has been granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under Appendix EU or under its equivalent in the Islands)
- is an Irish citizen who has not made a valid application under Appendix EU, and who would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU if they made such an application before 1 July 2021
- (where the applicant is the family member (“F”) to whom paragraph 9 of Schedule 6 to the EEA Regulations refers and meets the criteria as F in that paragraph) is an EEA citizen in accordance with sub-paragraph (c) of the definition in Annex 1 to Appendix EU, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- is a relevant person of Northern Ireland and, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
  - where they are an Irish citizen, they have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
where they are a British citizen or a British citizen and an Irish citizen, they would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- is a person exempt from immigration control, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU)

Relevant evidence

Evidence which may be relevant to the requirements above includes evidence that the applicant is the child under the age of 21 of a relevant EEA citizen or of their spouse or civil partner. See assessing family relationship for the relevant evidence of that.

It also includes evidence that either:

- the relevant EEA citizen (or their spouse or civil partner) has been or is being granted ILE or ILR under paragraph EU2 of Appendix EU
- if the child’s parent (or their spouse or civil partner) is an Irish citizen who has not made a valid application under Appendix EU, evidence they would be granted ILE or ILR under paragraph EU2 if they made such an application. For example, their valid passport or national identity card and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
- if the relevant EEA citizen is a relevant person of Northern Ireland, either:
  - where they are an Irish citizen, evidence they have been or are being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) or would be granted indefinite leave to enter or remain under that paragraph, if they made a valid application under Appendix EU before 1 July 2021 - for example, the reference number for their application under the scheme where they have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU; or their valid Irish passport or national identity card, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
  - where they are a British citizen or a British citizen and an Irish citizen, they would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021 - for example, their valid Irish passport or national identity card and/or their valid British passport
passport, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date

- if the child’s parent (or their spouse or civil partner) is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU), evidence they would, were they not a British citizen, be granted ILE or ILR under paragraph EU2 if they made a valid application under Appendix EU before 1 July 2021 - for example, their valid passport or national identity card as an EEA citizen, evidence that they are a British citizen and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date

**Decision**

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11. Otherwise, you must consider their eligibility for 5 years’ LTE or LTR under condition 1 in rule EU14.

**Scenario 1**

Miss O, a 12 year old Argentinian citizen, has applied as the daughter of Mrs O, a Portuguese citizen. Miss O 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 has been confirmed by Home Office records. Miss O is eligible for ILR.

**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 Polish 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 Polish citizen.

A reference number provided confirms that Ms P has been granted ILR under the scheme. Mr P is eligible for ILR.

**Related content**

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Appendix EU to the Immigration Rules
Family member who has retained the right of residence

An applicant can meet the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) under rule EU11 (condition 1, 2 or 3), or for limited leave to enter (LTE) or limited leave to remain (LTR) under rule EU14 (condition 1), as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen.

An applicant can meet the eligibility requirements for ILE or ILR under rule EU12 (condition 1, 2 or 3), or for LTE or LTR under rule EU14 (condition 2), as a family member who has retained the right of residence by virtue of a relationship with a qualifying British citizen.

An applicant can meet the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) under rule EU11A (condition 1), or for limited leave to enter (LTE) or limited leave to remain (LTR) under rule EU14A (the condition there), as a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor.

This section sets out the requirements to be met and the evidence which may be provided by the applicant, who can be a European Economic Area (EEA) citizen or a non-EEA citizen, to satisfy you that, at the date of application, they are a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, with a qualifying British citizen or with a relevant sponsor.

You must also be satisfied that since satisfying those requirements, the ‘required continuity of residence’ has been maintained by the applicant. This means that, where the applicant has not completed a continuous qualifying period of 5 years (and does not have valid evidence of their indefinite leave to enter or remain, and has not acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 or under the Immigration (European Economic Area) Regulations of the Isle of Man), then, since the point at which (where they do so) they began to rely on being in the UK and Islands as a family member who has retained the right of residence and while they continued to do so, one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of ‘continuous qualifying period’ in Annex 1 to Appendix EU has not occurred.

Evidence about the relevant EEA citizen (or qualifying British citizen or relevant sponsor)

Where the applicant is an EEA citizen or non-EEA citizen without a documented right of permanent residence who relies on being (or for the relevant period on having been) a family member who has retained the right of residence by virtue of a
relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor), the applicant will need to provide:

- proof of the identity and nationality of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) – see other evidence in assessing family relationship

You can agree to accept alternative evidence of the identity and nationality of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) 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 EEA citizen (or qualifying British citizen or relevant sponsor), 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 having shown why it is not possible for them to do so. For further guidance, see Alternative evidence of identity and nationality or of entitlement to apply from outside the UK.

Where the applicant is an EEA citizen or non-EEA citizen without a documented right of permanent residence who relies on having been a family member of a relevant EEA citizen (or of a qualifying British citizen), or a joining family member of a relevant sponsor, before being (or for the relevant period on having been) a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, a qualifying British citizen or a relevant sponsor, the applicant will also need to provide:

- evidence about the residence or status of the relevant EEA citizen (or about the residence of the qualifying British citizen or the residence or status of the relevant sponsor) – see other evidence in assessing family relationship – which satisfies you either that:
  - the EEA citizen (or British citizen) was a relevant EEA citizen (or a qualifying British citizen or relevant sponsor) throughout any continuous qualifying period on which the applicant relies as being a family member of a relevant EEA citizen (or of a qualifying British citizen) or a joining family member of a relevant sponsor
  - the EEA citizen is a relevant EEA citizen as described in sub-paragraph (b), (c), (d), (e), (f) or (g) in the entry for ‘relevant EEA citizen’ in Annex 1 to Appendix EU, where the date of application is before 1 July 2021

You must take a flexible and pragmatic approach, particularly where you are satisfied that there has been a permanent breakdown in the relationship between the applicant and the relevant EEA citizen (or qualifying British citizen or relevant sponsor). Each case must be dealt with on its own merits and on a case by case basis, in consultation with your senior caseworker.
In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant in order to obtain the required evidence on a case by case basis, and in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

The relevant EEA citizen (or qualifying British citizen or relevant sponsor) has died

Requirements

The applicant can apply as a family member who has retained the right of residence where:

- they were the family member of a relevant EEA citizen (or qualifying British citizen), or the joining family member of a relevant sponsor, and that person has died
- they were resident in the UK as the family member of that relevant EEA citizen (or qualifying British citizen), or as the joining family member of that relevant sponsor, for a continuous qualifying period of at least 1 year immediately before their death

Relevant evidence

In addition to evidence about the relevant EEA citizen (or qualifying British citizen or relevant sponsor), evidence which may be relevant to the requirements above includes:

- the death certificate of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or other evidence which you are satisfied evidences the death
- evidence that the applicant was the family member of the relevant EEA citizen (or qualifying British citizen) or a joining family member of the relevant sponsor. See assessing family relationship for the relevant evidence of this
- evidence that the applicant was resident in the UK as the family member of the relevant EEA citizen (or qualifying British citizen), or as a joining family member of the relevant sponsor, for a continuous qualifying period of at least 1 year immediately before their death

A child of a relevant EEA citizen (or qualifying British citizen or relevant sponsor) who has died or ceased to reside in the UK (or of their spouse or civil partner)

Requirements

The applicant can apply as a family member who has retained the right of residence where they both:
• are the child of a relevant EEA citizen (or qualifying British citizen or relevant sponsor) who has died or ceased to reside in the UK, or of their spouse or civil partner at that point
• were attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant EEA citizen (or qualifying British citizen or relevant sponsor) died or ceased to reside in the UK, and they continue to do so

**Relevant evidence**

In addition to evidence about the relevant EEA citizen (or qualifying British citizen or relevant sponsor), evidence which may be relevant to the requirements above includes:

• evidence of the child’s family relationship to the relevant EEA citizen (or qualifying British citizen or relevant sponsor, or to their spouse or civil partner at the time of their death or at the point they ceased to reside in the UK), and (where applicable) of the spouse or civil partner’s family relationship to the relevant EEA citizen (or qualifying British citizen or relevant sponsor) - see assessing family relationship for the relevant evidence of that
• the death certificate of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or other evidence which you are satisfied evidences the death, or evidence that the relevant EEA citizen (or qualifying British citizen or relevant sponsor) has ceased to reside in the UK, for example an employer’s letter for employment outside the UK
• evidence that the EEA citizen (or British citizen or relevant sponsor) was a relevant EEA citizen (or qualifying British citizen or relevant sponsor) immediately before their death or before they ceased to reside in the UK
• evidence that the applicant was attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant EEA citizen (or qualifying British citizen or relevant sponsor) died or ceased to reside in the UK, and that they continue to do so

**A parent with custody of a child of a relevant EEA citizen or qualifying British citizen (or of their spouse or civil partner)**

**Requirements**

The applicant can apply as a family member who has retained the right of residence where:

• they are the parent with custody of a child who has retained the right of residence because a relevant EEA citizen (or qualifying British citizen) has died or ceased to reside in the UK
• the child was attending a general educational course, apprenticeship or vocational training course in the UK immediately before the EEA citizen (or qualifying British citizen) died or ceased to reside in the UK, and the child continues to do so
• the child is not a joining family member of a relevant sponsor

Custody of a child means that the child normally lives with the applicant or does so part of the time, and includes arrangements agreed informally and those which are subject to a court order for determining who the child shall live with and when.

**Relevant evidence**

In addition to evidence about the relevant EEA citizen (or qualifying British citizen), evidence which may be relevant to the requirements above includes:

• evidence that the applicant has custody of the child, such as a court order
• evidence of the child’s family relationship to the relevant EEA citizen or qualifying British citizen (or to their spouse or civil partner at the time of their death or at the point they ceased to reside in the UK) - see assessing family relationship for the relevant evidence of that
• where applicable, evidence of the spouse or civil partner’s relationship to the relevant EEA citizen (or qualifying British citizen) - see assessing family relationship for the relevant evidence of that
• the death certificate of the relevant EEA citizen (or qualifying British citizen) or other evidence which you are satisfied evidences the death, or evidence that the relevant EEA citizen (or qualifying British citizen) has ceased to reside in the UK, for example, an employer’s letter for employment outside the UK
• evidence that the EEA citizen (or British citizen) was a relevant EEA citizen (or qualifying British citizen) immediately before their death or before they ceased to reside in the UK
• evidence that the child was attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant EEA citizen (or the qualifying British citizen) died or ceased to reside in the UK and continues to do so

**The marriage or civil partnership with a relevant EEA citizen (or qualifying British citizen or relevant sponsor) has been terminated**

**Requirements**

The applicant can apply as a family member who has retained the right of residence where:

• they ceased to be a family member of a relevant EEA citizen (or of a qualifying British citizen), or a joining family member of a relevant sponsor, on the termination of the marriage or civil partnership of that relevant EEA citizen (or of
that qualifying British citizen or relevant sponsor), regardless of whether, after the initiation of the proceedings for that termination, the relevant EEA citizen ceased to be a relevant EEA citizen (or the qualifying British citizen ceased to be a qualifying British citizen or the relevant sponsor ceased to be a relevant sponsor)

- they were resident in the UK at the date of the termination of the marriage or civil partnership

And one of the following applies, either:

- 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 resident in the UK for a continuous qualifying period of at least 1 year during its duration
- the applicant has custody of a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor)
- the applicant has the right of access to a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor), 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 applicant’s continued right of residence in the UK is warranted by particularly difficult circumstances, such as where they or another family member has been a victim of domestic violence or abuse whilst the marriage or civil partnership was subsisting

**Relevant evidence**

In addition to evidence about the relevant EEA citizen (or qualifying British citizen or relevant sponsor), evidence which may be relevant to the requirements above includes:

- the court order terminating the marriage or civil partnership
- evidence that the applicant was resident in the UK at the date of the termination

Where the applicant is applying on the basis that the marriage or civil partnership of the relevant EEA citizen (or of the qualifying British citizen or relevant sponsor) lasted for at least 3 years before legal proceedings for its termination began, and the parties to the marriage or civil partnership were resident in the UK for a continuous qualifying period of at least one year during its duration, evidence which may be relevant to those requirements also includes:

- evidence of the marriage or civil partnership of the relevant EEA citizen (or qualifying British citizen or relevant sponsor), for example a marriage or civil partnership certificate
- evidence that prior to the initiation of the legal proceedings for its termination, the marriage or civil partnership had lasted for at least 3 years
- evidence that the parties to the marriage or civil partnership were resident in the UK for a continuous qualifying period of at least one year during its duration
You also need to be satisfied that the applicant met the definition of a family member of a relevant EEA citizen (or of a qualifying British citizen), or of a joining family member of a relevant sponsor, for the period of residence, prior to the termination of the marriage or civil partnership, on which they are seeking to rely (i.e. for the period prior to them meeting the definition of a family member who has retained the right of residence). See assessing family relationship for the relevant evidence of that.

Where the applicant is applying on the basis that they have custody of a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or the right of access to a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor), evidence which may be relevant to those requirements also includes either:

- evidence that they have custody of the child, including either:
  - evidence that the child normally lives with the applicant
  - evidence that the child lives with the applicant part of the time
  - evidence of informally agreed arrangements regarding the child’s care
  - where the child is subject to a court order, evidence of this and the determination as to whom the child should live with and when

- evidence that they have the right of access to a child under the age of 18, including:
  - a court order in respect of that right of access that states that such access must take place in the UK

Where the applicant is applying on the basis that their continued right of residence in the UK is warranted by particularly difficult circumstances, such as domestic violence or abuse whilst the marriage or civil partnership was subsisting, you will also need to see relevant information or evidence about this from the applicant. You must take a flexible and pragmatic approach. Each case must be dealt with on its own merits and on a case by case basis, in consultation with your senior caseworker. For further guidance regarding domestic violence or abuse, see the next section.

In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant on a case by case basis, and in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

A relevant family relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor) has broken down permanently as a result of domestic violence or abuse

Requirements

The applicant can apply as a family member who has retained the right of residence where both:
they are an EEA or non-EEA citizen who provides evidence that a relevant family relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor) has broken down permanently as a result of domestic violence or abuse

they were resident in the UK when the relevant family relationship broke down permanently as a result of domestic violence or abuse, and the continued right of residence in the UK of the applicant is warranted where the applicant or another family member has been a victim of domestic violence or abuse before the relevant family relationship broke down permanently

‘Relevant family relationship’ means a family relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor) such that the applicant is, or (immediately before the relevant family relationship broke down permanently as a result of domestic abuse) was, a family member of a relevant EEA citizen (or of a qualifying British citizen) or a joining family member of a relevant sponsor. For further guidance see assessing family relationship.

This means that the applicant can be a victim of domestic violence or abuse or a relevant family member of the victim.

Where, following the permanent breakdown of the relevant family relationship as a result of domestic violence or abuse, the applicant remains a family member of a relevant EEA citizen (or of a qualifying British citizen), or a joining family member of a relevant sponsor, they will be deemed to have ceased to be such a family member for the purposes of Appendix EU once the permanent breakdown occurred.

This means that the applicant does not need to meet the requirements of Appendix EU as a family member of a relevant EEA citizen (or of a qualifying British citizen), or as a joining family member of a relevant sponsor, from that point on.

For example, where the applicant is applying on the basis that their continued right of residence in the UK is warranted where they or another family member have been a victim of domestic violence or abuse before the relevant family relationship broke down permanently, the applicant does not need to provide evidence which satisfies you that they remain dependent on the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or (where relevant) on the spouse or civil partner, if the applicant is either:

- a child aged 21 or over of a relevant EEA citizen, qualifying British citizen or relevant sponsor (or of their spouse or civil partner) and was not previously granted limited leave to enter or remain under Appendix EU (or under its equivalent in the Islands) as a child under the age of 21
- the dependent parent of a relevant EEA citizen, qualifying British citizen or relevant sponsor who is aged under 18
Relevant evidence

In addition to evidence about the relevant EEA citizen (or qualifying British citizen or relevant sponsor), evidence which may be relevant to the requirements above includes:

- evidence that demonstrates that the relevant family relationship broke down permanently as a result of domestic violence or abuse
- evidence that the applicant was resident in the UK when the relevant family relationship broke down permanently as a result of domestic violence or abuse

You need to see evidence that demonstrates that the relevant family relationship broke down permanently as a result of domestic violence or abuse. You need to be satisfied both that the relevant family relationship has broken down permanently and that this is as a result of domestic violence or abuse. See the examples of relevant evidence below, but this is not exhaustive. You must take a flexible and pragmatic approach. Each case must be dealt with on its own merits and on a case by case basis in consultation with your senior caseworker. For guidance on types of domestic violence or abuse see Victims of domestic violence and abuse.

Neither Appendix EU nor any other parts of the Immigration Rules specify any mandatory evidence to be submitted with an application to demonstrate that a relevant family relationship has broken down permanently as a result of domestic violence or abuse. All the evidence must be considered and a conclusion drawn as to whether there is sufficient evidence to demonstrate that, on the balance of probabilities, the relevant family relationship broke down permanently as a result of domestic violence or abuse.

Factors to be taken into account when assessing the evidence include:

- the length of time since the alleged incident or incidents of domestic violence or abuse and any reasons given for this - for example, the applicant’s family member may have retained their documents or failed to tell them about their immigration status as part of the abuse. Some individuals may not have realised that they were experiencing domestic abuse or may not have known how or where to get support
- a person may hold pre-settled status before their relationship broke down as a result of domestic violence or abuse, and where they apply later for settled status, the length of time since then may make it difficult for them to obtain certain evidence, for example from support services for victims of domestic violence or abuse which they accessed at the time. You must look at the reasons given for this and take a flexible and pragmatic approach to considering the application
- the fact that the applicant and the perpetrator of domestic violence or abuse may still be living at the same address when the application is made may not necessarily be taken as an indicator the relationship has not broken down permanently, as this could be due to a number of reasons - for example, the
victim’s lack of knowledge of, or access to safety and support, their fear of losing custody of any children, their fear for their or their children’s safety, a lack of means to support themselves or their children financially, or religious or cultural beliefs or practices

- previous immigration history, particularly where there is evidence that the applicant has made a number of attempts to secure leave to remain in the UK on different grounds

For guidance on the type of evidence which may be produced and factors which are to be taken into account when considering whether the evidence is sufficient to demonstrate that, on the balance of probabilities, the relevant family relationship broke down permanently as a result of domestic violence or abuse, see the table of evidence for this in Victims of domestic violence and abuse. This is not exhaustive and all the evidence must be considered in the round.

In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant on a case by case basis, and in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

Under section 55 of the Borders, Citizenship and Immigration 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. If you have concerns about a child who has applied to the scheme or in respect of whom an application has been made, see Applications in respect of children for further guidance.

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[Appendix EU to the Immigration Rules](#)

Victims of domestic violence and abuse
Joining family member of a relevant sponsor who has completed a continuous qualifying period of 5 years

Under condition 1 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that the applicant either:

- is (or for the relevant period was) a joining family member of a relevant sponsor
- is (or for the relevant period was) a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor

And, in addition, all the following apply:

- if the application is made within the UK, the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU)
- the applicant has completed a continuous qualifying period of 5 years which began after the specified date, in either (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 and in an application made after the specified date and by the required date:

- if the application is made within the UK, the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU)

And that the applicant either:

- is (or for the relevant period was) a [joining family member of a relevant sponsor](#)
- is (or for the relevant period was) a [family member who has retained the right of residence by virtue of a relationship with a relevant sponsor](#)

And you must be satisfied that, at the date of application and in an application made after the specified date and by the required date, the applicant has completed a continuous qualifying period of 5 years which began after the specified date, in either, or any combination of, those categories.

In addition, you must be satisfied that since then no [supervening event](#) has occurred.
Relevant evidence

If the applicant is (or, as the case may be, for the relevant period was) a joining family member of a relevant sponsor, see assessing family relationship for the relevant evidence of that.

If the applicant is (or, as the case may be, for the relevant period was) a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, see a family member who has retained the right of residence for the relevant evidence of that.

The applicant will be invited by the application process to provide evidence that confirms that they have completed a continuous qualifying period of residence in the UK and Islands (or, where applicable, the UK) of 5 years which began after the specified date. See evidence of residence for examples of evidence of residence an applicant may produce.

The applicant must also provide a self-declaration that since then they have not been absent from the UK and Islands for a period of more than 5 consecutive years.

Decision

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years' limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

Related content
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Related external links
Appendix EU to the Immigration Rules
Joining family member of a relevant sponsor who is a person who has ceased activity

Under condition 2 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that, at the date of application, the requirements below are met.

Requirements

You must be satisfied that, at the date of application and in an application made after the specified date and by the required date, all the following requirements are met:

- if the application is made within the UK, the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU)
- the applicant is (or as the case may be was) a joining family member of a relevant sponsor who is a person who has ceased activity
- the applicant was such a joining family member at the point the relevant sponsor became a person who has ceased activity

Where the date of application is before 1 July 2021, you must also be satisfied that the relevant sponsor is either:

- an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
  - has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of this Appendix or under its equivalent in the Islands)
  - would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- a relevant person of Northern Ireland in accordance with that definition in Annex 1 to Appendix EU and, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
  - where they are an Irish citizen, they have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or are being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands) or would be granted indefinite leave to enter or remain under that paragraph of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
  - where they are a British citizen or a British citizen and an Irish citizen, they would, but for the fact that they are a British citizen, be granted indefinite
leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- a person exempt from immigration control who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021
- is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU)

The applicant also needs to demonstrate both that:

- they were resident in the UK and Islands for a continuous qualifying period which began after the specified date, immediately before the relevant sponsor became a person who has ceased activity
- since the relevant sponsor became a person who has ceased activity, no supervening event has occurred

**Relevant evidence**

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant is (or for the relevant period was) the family member of a relevant sponsor. See assessing family relationship for the relevant evidence of that
- evidence that the relevant sponsor is a person who has ceased activity and that the applicant was their family member when they did so. See ceased activity for the relevant evidence of that
- evidence that the relevant sponsor:
  - has been or is being granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) or (but for the fact that, where they are, they are a British citizen or a person exempt from immigration control) would be granted that leave under paragraph EU2 if they made a valid application under Appendix EU before 1 July 2021. For example, the relevant application reference number where they have applied under the scheme
  - is a relevant person of Northern Ireland
  - is a relevant naturalised British citizen
  - is a person who is exempt from immigration control
- evidence that the applicant was resident in the UK and Islands for a continuous qualifying period which began after the specified date, immediately before the relevant sponsor became a person who has ceased activity
- a self-declaration that the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years since the relevant sponsor became a person who has ceased activity
Decision

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years’ limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

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Related external links
Appendix EU to the Immigration Rules
Joining family member of a relevant sponsor who has died

Under condition 3 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that, at the date of application and in an application made after the specified date and by the required date, the requirements below are met.

Requirements

You must be satisfied that, at the date of application and in an application made after the specified date and by the required date, all the following requirements are met:

- if the application is made within the UK, the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU)
- the applicant is a joining family member of a relevant sponsor who has died
- the applicant was resident in the UK with the relevant sponsor after the specified date and immediately before their death
- the relevant sponsor was resident in the UK as a worker or self-employed person at the time of their death
- the relevant sponsor was resident in the UK and Islands for a continuous qualifying period of at least 2 years which began before the specified date, immediately before dying, or the death was the result of an accident at work or an occupational disease
- since the death of the relevant sponsor, no supervening event has occurred

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant was the joining family member of a relevant sponsor before the relevant sponsor died – see assessing family relationship for the relevant evidence of that
- the death certificate of the relevant sponsor or other evidence you are satisfied evidences the death
- evidence that the relevant sponsor was resident in the UK as a worker or self-employed person at the time of their death – for example, employer’s letter, wage slips, relevant information from HMRC, etc
- evidence that the relevant sponsor was resident in the UK and Islands for a continuous qualifying period of at least 2 years which began before the specified date, immediately before their death (see evidence of residence), 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)
• evidence that that the applicant was resident in the UK with the relevant sponsor immediately before they died
• a self-declaration by the applicant that they have not been absent from the UK and Islands for a period of more than 5 consecutive years since the relevant sponsor died

**Decision**

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years’ limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

**Related content**

*Contents*

**Related external links**

*Appendix EU to the Immigration Rules*
Joining family member who is a child under the age of 21 years of a relevant sponsor or of their spouse or civil partner

Under condition 4 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that either:

- the applicant is a joining family member of a relevant sponsor and is a child under the age of 21 of the relevant sponsor, and the relevant sponsor meets the relevant requirements set out below
- the applicant is a joining family member of a relevant sponsor and is a child under the age of 21 of the spouse or civil partner of the relevant sponsor, where the marriage was contracted or the civil partnership was formed before the specified date (or the spouse or civil partner was the durable partner of the relevant sponsor before the specified date and the partnership remained durable at the specified date) and the spouse or civil partner has been or is being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (as the family member of a relevant EEA citizen, who is the relevant sponsor)
- the applicant is a joining family member of a relevant sponsor and is a child under the age of 21 of the spouse or civil partner of the relevant sponsor, and the spouse or civil partner meets the requirements of the first sub-paragraph (a), together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii), of the definition of ‘joining family member of a relevant sponsor’ in Annex 1 to Appendix EU, and the spouse or civil partner has been or is being granted indefinite leave to enter or remain under paragraph EU2A of Appendix EU (as a joining family member of the relevant sponsor)

Requirements

Where the date of application is before 1 July 2021, where (in cases where the application is made within the UK) the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU) and where the applicant relies on being a joining family member of a relevant sponsor and a child under the age of 21 years of the relevant sponsor, you must be satisfied that, at the date of application and in an application made after the specified date and by the required date, both:

- the applicant is a child under the age of 21 of the relevant sponsor (see assessing family relationship)
- the relevant sponsor is:
  - an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands
for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)

- an Irish citizen who has not made a valid application under Appendix EU and who is an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- a relevant person of Northern Ireland, in accordance with that definition in Annex 1 to Appendix EU, who is an Irish citizen who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- a relevant person of Northern Ireland, in accordance with that definition in Annex 1 to Appendix EU, who is a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- a person exempt from immigration control who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, but for the fact that they are a person exempt from immigration control, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021

- a relevant naturalised British citizen, in accordance with sub-paragraphs (b), (c) and (d), of that definition in Annex 1 to Appendix EU

Where the date of application is before 1 July 2021, where (in cases where the application is made within the UK) the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU) and where the applicant relies on being a joining family member of a relevant sponsor and a child under the age of 21 years of the spouse or civil partner of the relevant sponsor, you must be satisfied that, at the date of application and in an application made after the specified date and by the required date, either:
• they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
  o meets the requirements of sub-paragraph (a) of the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU, substituting ‘relevant sponsor’ for each reference in that sub-paragraph to ‘relevant EEA citizen’
  o has been or is being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU
• they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
  o meets the requirements of the first sub-paragraph (a), together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii), of the definition of ‘joining family member of a relevant sponsor’ in Annex 1 to Appendix EU
  o has been or is being granted indefinite leave to enter or remain under paragraph EU2A of Appendix EU

Relevant evidence

Evidence which may be relevant to the requirements above includes evidence that the applicant is the child under the age of 21 of a relevant sponsor or of their spouse or civil partner. See assessing family relationship for the relevant evidence of that

It also includes evidence that either:

• the child’s parent has been or is being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU or (where the parent is a joining family member of the relevant sponsor) under paragraph EU2A of Appendix EU
• if the child’s parent (or their spouse or civil partner) is an Irish citizen who has not made a valid application under Appendix EU, evidence that they would be granted indefinite leave to enter or remain under paragraph EU2 if they made such an application before 1 July 2021. For example, their valid passport or national identity card and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
• if the relevant sponsor is a relevant person of Northern Ireland, either:
  o where they are an Irish citizen, evidence that they have been or are being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) or would be granted that leave under that paragraph, if they made a valid application under Appendix EU before 1 July 2021 - for example, the reference number for their application under the scheme, or their valid Irish passport or national identity card, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
where they are a British citizen or a British citizen and an Irish citizen, evidence that they would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, if they made a valid application under Appendix EU before 1 July 2021 - for example, their valid Irish passport or national identity card and/or their valid British passport, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date

- if the child’s parent (or their spouse or civil partner) is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU), evidence that they would, but for the fact that they a British citizen, be granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU if they made a valid application under Appendix EU before 1 July 2021 - for example, their valid passport or national identity card as an EEA citizen, evidence that they are a British citizen and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date

**Decision**

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years' limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

**Related content**

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**Related external links**

- Appendix EU to the Immigration Rules
Consideration of applications: 5 years’ limited leave to enter (LTE) or limited leave to remain (LTR)

Relevant EEA citizens and family members

Under rule EU14, an applicant will meet the eligibility requirements for LTE or LTR where you are satisfied, including (where applicable) by the required evidence of family relationship, that at the date of application, and in an application made by the required date:

- the applicant is:
  - a relevant European Economic Area (EEA) citizen
  - a family member of a relevant EEA citizen
  - a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen
  - a person with a derivative right to reside
  - a person with a Zambrano right to reside
- the applicant is not eligible for ILE or ILR under paragraph EU11 of Appendix EU solely because they have completed a continuous qualifying period of residence of less than 5 years

Relevant evidence

You must be satisfied that the applicant meets the eligibility criteria for ILE or ILR of condition 3 in rule EU11, as set out in this guidance, save that they have not completed a continuous qualifying period of 5 years.

Automated checks will be undertaken with HMRC and DWP which may provide evidence that the applicant has completed a continuous qualifying 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 continuous qualifying period of residence in the UK. See consideration of applications: eligibility and see evidence of residence for examples of the forms of evidence that they may provide to do so.

Joining family members of relevant sponsors

Under rule EU14A, an applicant will meet the eligibility requirements for LTE or LTR as a joining family member of a relevant sponsor where (in cases where the application is made within the UK) the applicant is not in the UK as a visitor (as defined in Annex 1 to Appendix EU) and you are satisfied, including by the required
evidence of family relationship, that, at the date of application and in an application made after the specified date and by the required date, both:

- the applicant is either:
  - a joining family member of a relevant sponsor
  - a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor
- the applicant is not eligible for either:
  - ILE under paragraph EU11A of Appendix EU, where the application is made outside the UK
  - ILR under paragraph EU11A of Appendix EU, where the application is made within the UK, solely because they have completed a continuous qualifying period of less than 5 years which began after the specified date

**Relevant evidence**

Where the application is made outside the UK, you must be satisfied that the applicant does not meet the eligibility criteria for ILE under rule EU11A of Appendix EU and that the applicant meets the eligibility criteria for LTE under rule EU14A of Appendix EU.

Where the application is made within the UK, you must be satisfied that the applicant meets the eligibility criteria for ILR under condition 1 in rule EU11A, as set out in this guidance, save that they have not completed a continuous qualifying period of 5 years which began after the specified date.

Where they have not done so and the application is made within the UK, the applicant must be invited to provide evidence that confirms that they have completed a continuous qualifying period of residence in the UK which began after the specified date. See **consideration of applications: eligibility** and see **evidence of residence** for examples of the forms of evidence that they may provide to do so.

**Decision**

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

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, the application must be refused. For further information, please see **refusals** section below.

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**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.
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 enter or remain or limited leave to enter or 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.

You must, subject to the next two paragraphs, make three attempts in total over a minimum of three weeks to contact the applicant. The first two contacts may be made concurrently by two different methods (where the applicant has provided the relevant contact details) – from, ordinarily, telephone call, text, email, letter – and must include the applicant’s preferred method of contact, where this has been specified as part of the application. You must give the applicant a reasonable opportunity in which to provide more information or evidence, after which a third and final attempt must be made, giving the applicant a response time of a further seven days.

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.

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

In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant on a case by case basis, and
in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

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Related external links
Appendix EU to the Immigration Rules
Consideration of an application under Annex 2 of Appendix EU

A valid application made under Appendix EU will be decided on the basis of:

- the information and evidence provided by the applicant, including in response to any request by you for further information or evidence
- any other information or evidence made available to you (including from other government departments) at the date of decision

Requesting further information or evidence and interviewing

When deciding whether the applicant meets the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain, you may:

- request that the applicant provide further information or evidence that they meet the requirements for indefinite leave to enter or remain or limited leave to enter or remain
- invite the applicant to be interviewed in person, by telephone, by video-telecommunications link or over the internet

If the applicant claims to be eligible for a grant of indefinite to enter or remain or limited leave to enter or remain on the basis of a relationship with another person, including a qualifying British citizen or a relevant sponsor, you may:

- request that that person provide information or evidence about their relationship with the applicant, their residence in the UK or, if that person is a qualifying British citizen, their residence in an EEA country or Switzerland (as in sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU)
- invite that person to be interviewed in person, by telephone, by video-telecommunications link or over the internet

Failure to provide information or evidence or attend an interview

If the applicant, or person with whom they claim to be in a relationship, fails within a reasonable timeframe specified in the request to provide the information or evidence that you have requested or, on at least 2 occasions, fails to comply with an invitation to attend an interview in person or with other arrangements to be interviewed, you may draw any factual inferences about whether the applicant meets the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain as appear appropriate in the circumstances.
You may decide, following the drawing of such a factual inference, that the applicant does not meet the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain.

You must not decide that the applicant does not meet the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain on the sole basis that the applicant, or the person with whom they claim to be in a relationship, failed on at least 2 occasions to comply with an invitation to be interviewed.

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Related external links
Appendix EU to the Immigration Rules
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 Withdrawal Agreement.

A valid application under Appendix EU which does not meet the 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 & Citizens’ Rights Unit for further advice.

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Appendix EU to the Immigration Rules
Evidence of residence

Evidence required to establish residence in the UK

Many applicants will have their residence confirmed by automated checks of HM Revenue & Customs (HMRC) and Department for Work and Pensions (DWP) data. However, where those checks indicate that an applicant who does not hold a permanent residence document has a continuous qualifying period of residence in the UK of less than 5 years – or do not indicate that the applicant has been and remains resident in the UK for the purposes of establishing a continuous qualifying period – the applicant will be able to upload documentary evidence to satisfy you that they are or have been resident for a continuous qualifying period and, where appropriate, that they have been so for at least 5 years or that they are in one of the categories eligible for indefinite leave to enter or remain (ILE or ILR) with a continuous qualifying period of residence in the UK of less than 5 years.

Applicants who are relying on periods of residence in the Islands will be able to upload documentary evidence of their residence there.

This section 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 qualifying period of residence in the UK by the best means available to them.

The applicant may submit several types of evidence to cover their claimed continuous qualifying period of 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 of residence

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
• 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 of residence**

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 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
Cancellation, curtailment and revocation of leave to enter or remain

Annex 3 to Appendix EU sets out the circumstances in which indefinite leave to enter or remain (ILE or ILR) or limited leave to enter or remain (LTE or LTR) granted under Appendix EU must be cancelled or may be cancelled, curtailed or revoked.

Cancellation

A person’s ILE, ILR, LTE or LTR granted under Appendix EU must be cancelled on or before their arrival in the UK where the person’s presence in the UK is not conducive to the public good because of conduct committed after the specified date.

A person’s ILE, ILR, LTE or LTR granted under Appendix EU may be cancelled on or before their arrival in the UK where you are (or an Immigration Officer is) satisfied that it is proportionate to cancel that leave where either:

- the cancellation is justified on grounds of public policy, public security or public health in accordance with regulation 27 of the EEA Regulations, irrespective of whether the EEA Regulations apply to that person (except that for “a right of permanent residence under regulation 15” read “indefinite leave to enter or remain or who would be granted indefinite leave to enter or remain if they made a valid application under this Appendix”; and for “an EEA decision” read “a decision under paragraph A3.2.(a) of Annex 3 to Appendix EU to the Immigration Rules”)
- the cancellation is justified on grounds that, in relation to the relevant application under Appendix EU, and whether or not to the applicant’s knowledge, false or misleading information, representations or documents were submitted (including false or misleading information submitted to any person to obtain a document used in support of the application); and the information, representation or documentation was material to the decision to grant the applicant leave to enter or remain under Appendix EU

A person’s LTE or LTR granted under Appendix EU may be cancelled on or before their arrival in the UK where you are (or an Immigration Officer is) satisfied that it is proportionate to cancel that leave where they cease to meet the requirements of Appendix EU. This does not apply to ILE or ILR granted under Appendix EU.

Curtailment

A person’s LTE or LTR granted under Appendix EU may be curtailed where you are satisfied that it is proportionate to do so where:

- curtailment is justified on grounds that, in relation to the relevant application under Appendix EU, and whether or not to the applicant’s knowledge, false or misleading information, representations or documents were submitted
(including false or misleading information submitted to any person to obtain a document used in support of the application); and the information, representation or documentation was material to the decision to grant the applicant leave to enter or remain under Appendix EU

- curtailment is justified on grounds that it is more likely than not that, after the specified date, the person has entered, attempted to enter or assisted another person to enter or to attempt to enter, a marriage, civil partnership or durable partnership of convenience
- the person ceases to meet the requirements of Appendix EU

This does not apply to ILE or ILR granted under Appendix EU.

**Revocation**

The revocation of ILE and ILR is governed by section 76 of the Nationality, Immigration and Asylum Act 2002. There is no legal power to revoke ILE or ILR for any reason beyond those set out in section 76 of the 2002 Act. The relevant provisions of that section are reflected in Annex 3 to Appendix EU for completeness.

A person’s ILE or ILR granted under Appendix EU may be revoked where you are satisfied that it is proportionate to do so where either:

- the applicant is liable to deportation, but cannot be deported for legal reasons
- the ILE or ILR was obtained by deception

Further guidance is available in EU Settlement Scheme: suitability requirements and in Revocation of indefinite leave guidance.

**Related content**

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**Related external links**

[Appendix EU to the Immigration Rules](#)
[Section 76 of the Nationality, Immigration and Asylum Act 2002](#)
[EU Settlement Scheme: suitability requirements](#)
[Revocation of indefinite leave guidance](#)
Administrative review and Appeals

Anyone who makes a valid application under Appendix EU and is refused or is granted pre-settled status (limited leave to enter or remain), will be able to challenge the decision by administrative review and/or (depending on the date of application) by appeal.

Administrative review

Administrative review is available where an eligible decision, as set out in paragraph AR(EU)1.1. of Appendix AR (EU) to the Immigration Rules, has been made.

An eligible decision includes a decision to:

- refuse an application under paragraph EU6 of Appendix EU because the applicant does not meet the eligibility requirements for indefinite leave to enter or remain under paragraph EU11, EU11A or EU12 or for limited leave to enter or remain under paragraph EU14 or EU14A
- grant limited leave to enter or remain under paragraph EU3 of Appendix EU and not indefinite leave to enter or remain under paragraph EU2
- grant limited leave to enter or remain under paragraph EU3A of Appendix EU and not indefinite leave to enter or remain under paragraph EU2A
- cancel leave granted under Appendix EU on the grounds that the person ceases to meet the requirements of that Appendix for that leave

Where an eligible decision has been made, and the applicant believes that the original caseworker has made an error or not followed the published guidance, or where they have new information or evidence in support of their application, they can apply for an administrative review of the decision.

A different caseworker in an independent team will conduct a full reconsideration of the decision, taking into account any new evidence or information submitted, and decide whether the original decision was either:

- correct and should be maintained
- incorrect and should be withdrawn and a new decision made

Further guidance is available in the Administrative Review: EU Settlement Scheme guidance.

Right of Appeal

Anyone who makes a valid application under Appendix EU on or after 11pm on 31 January 2020 will have a right of appeal against a decision to refuse their application on eligibility or suitability grounds, or to grant pre-settled status where they believe they qualify for settled status, or where they have settled status or pre-settled status and a relevant decision is made on or after 11pm on 31 January 2020 to cancel,
curtail or revoke that leave or to make a deportation order in relation to them. See Rights of Appeal guidance.

They may appeal on grounds that the decision:

- breaches any right they have under the Withdrawal Agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement
- was not in accordance with the legislation under which it was made

The paragraphs above summarise the position set out in detail in the Rights of Appeal guidance.

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Administrative Review: EU Settlement Scheme guidance
Rights of Appeal guidance