



Home Office

# EU Settlement Scheme (interim guidance): Gender identity and sex markers on documents

Version v1.0

# Contents

Contents.....	2
About this guidance.....	3
Contacts .....	3
Publication .....	3
Changes from last version of this guidance .....	3
Gender identity.....	4
Introduction.....	4
Sex and gender identity in the United Kingdom.....	4
Gender Recognition Act 2004.....	5
Sex markers other than male or female .....	6
Transgender applicants .....	7
Exceptions .....	7
Transitioning.....	10
Holders of pre-settled and settled status .....	12
Dual nationals (non-UK nationalities) .....	13
Change of name.....	14

# About this guidance

This guidance tells you how to consider applications under the EU Settlement Scheme (EUSS) that involve a change of gender or name and gender, including the use of sex markers other than 'male' or 'female'. This guidance explains how you process an applicant's request for their status to be issued in a name and/or sex marking that is different to the biographic information recorded in their identity or travel document.

## 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 Identity Security team.

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

## Publication

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

- version **1.0**
- published for Home Office staff on **20 November 2019**

## Changes from last version of this guidance

New guidance.

### Related content

[Contents](#)

# Gender identity

This section tells you about processing applications under the EU Settlement Scheme where an applicant uses a gender or gender and name that is different to the details recorded on their identity or travel document.

For guidance on documents which are acceptable as required proof of identity and nationality or proof of entitlement to apply from outside the UK please see: [EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members](#).

## Introduction

There may be applicants under the EU Settlement Scheme who may be transitioning, or have transitioned, from one gender to another, or may not recognise themselves as being either of male or female gender, such as non-binary sex, or 'self-declare' as being of a different gender from that on their identity documents.

These applicants may present identity documents with sex markers that do not reflect their gender identity and therefore such applicants may wish to be known to the Home Office by a different sex marker. There may be other applicants who may change their gender after their status has been granted, or who have identity or travel documentation which indicates a sex marker other than 'male' or 'female'.

This guidance is concerned with the identity in which settled or pre-settled status can be granted. The conditions set out in this guidance **do not** affect an applicant's eligibility for settled or pre-settled status that applicants can obtain in the name and sex marker recorded on their submitted identity or travel document.

This guidance applies to all applicants under the EU Settlement Scheme, regardless of their nationality. This guidance reflects the published Use and change of name policy, which states that 'Transgender foreign nationals whose national authorities do not recognise changes to names and/or gender in their passports or national identity cards will be able to obtain a BRP in their acquired name and gender, providing the person can demonstrate they are using the acquired name and gender for all purposes.'

## Sex and gender identity in the United Kingdom

A person's sex is determined by their biological characteristics including physical and genetic differences. A person's gender identity refers to the person's self-identity. This is not necessarily based on their biological characteristics and is determined by how the person feels. A person's gender identity may be something other than male or female. In the UK a person is assigned a sex, either male or female, at birth based on their biological characteristics. UK law only recognises male and female sex. There are some countries which do recognise sexes other than male and female.

For the purposes of this guidance, 'transgender' refers to a person who has undergone a transition from one binary gender (male or female) to another binary gender (male or female).

## Gender Recognition Act 2004

Under the Gender Recognition Act 2004, a person's gender history is protected information. The Act makes it an offence to disclose to anyone the gender history of a transgender person holding a Gender Recognition Certificate, including disclosure to other civil servants who are not involved in the specific case. There is an obligation to not share any of the applicant's personal information beyond what is necessary to process their case.

The gender history of a person includes any previous names they may have used.

You must treat as protected information the gender history of any transgender applicant regardless of whether they hold a Gender Recognition Certificate. However, you must run the relevant checks against both the current identity and previous identities of transgender applicants who have a gender history.

The casework system used for the majority of EU Settlement Scheme applications (PEGA) does not have the functionality to duplicate person files to account for 2 (or more) separate gender identities (such as the current identity and any previous identity). As a work-around, you **must** manually create a CID record of the previous gender identity. Checks must be run against both CID records and against the applicant in both declared genders. You **must not** link the CID record to the PEGA record. You **must** make the CID record a restricted record.

### Related content

[Contents](#)

Use and change-names

[Main EUSS guidance](#)

[Appendix EU](#)

### Related external links

[Change of name guidance](#)

# Sex markers other than male or female

There are individuals who do not identify themselves as 'male' or 'female'. If an applicant has a passport or national identity card which contains a sex marker other than 'male' or 'female' (for example an 'X') you must **record** this information on the relevant case management system, as it is the declared gender of the applicant. Any sex marker that is not 'male' or 'female' must be recorded as 'other'.

If a person applies with a sex marker other than 'male' or 'female', you **must** record the person's sex as 'other' on the relevant case-management system.

You **must not issue** any Home Office documentation which indicates a sex marker other than 'male' or 'female'. Applicants will be informed in writing prior to application that they will not be able to receive a Biometric Residence Card (BRC) or any other documentation with a sex marker other than 'male' or 'female'. Applicants will be further informed that if their submitted documentation reflects an alternative sex marker, then they will be asked to elect either a 'male' or 'female' marking for their BRC if they need one.

The requirement for applicants to select a 'male' or 'female' sex marking applies only to those applicants who need to be issued with a BRC. It does not impact decisions on, or the issuing of, digital status which can proceed as normal.

Once digital status has been issued **and** if the applicant is applying with a sex marker other than 'male' or 'female' **and** requires a Biometric Residence Card (BRC), you **must** refer the case to a senior caseworker. The senior caseworker must write to the applicant to establish which sex marker they wish shown in their Home Office documentation (only male or female, as currently recognised in UK law). The applicant **must** be informed that the BRC will show their chosen (male or female) sex marker and will not be issued until this choice is made.

The choice not to elect a sex marker must be made clear as an option in any correspondence sent to the applicant. This correspondence must also make clear the consequences of the applicant not receiving a BRC, namely the risk of difficulties faced by applicant boarding return passage to the UK without the means to evidence their status. The applicant may elect a 'male' or 'female' sex marker at any time and be issued with their BRC.

## Related content

[Contents](#)

# Transgender applicants

When checking the immigration history or criminality history of an applicant who is transgender and has declared their previous identity on their application, you **must** check the immigration history in both their acquired name and sex marker, and the previous name and sex marker. You **must** treat this as protected information.

An applicant may have changed their gender but not changed the sex marker in their identity or travel document to reflect their acquired gender. If the applicant has submitted any correspondence indicating that they self-identify as a different gender compared to that in their identity document, you **must not** record the applicant in the sex marker corresponding to their self-identified gender. You **must** register the applicant in the sex marker recorded on their identity documentation.

Only when an applicant has changed their gender and changed the sex markers in **all** their identity documentation (identity and travel documents) to reflect the change in their gender can an application be processed using the sex marker contained in the new documents.

If an applicant does not change the sex markers in **all** their identity documentation, this does not affect their eligibility for the EU Settlement Scheme. The applicant will continue to be entitled to the leave they were entitled to in their previous identity but that leave must be issued with the biographic details contained in the applicant's submitted documentation.

Applicants for a change of gender **must** declare all identity and travel documentation that they hold **and** provide evidence that they have aligned the documents to reflect their acquired identity. This is required even if the documentation is not necessary for their eligibility for the scheme.

It is not possible to change a person's identity linked to their status until their identity and travel documents have been aligned to their new identity, to ensure they are using one identity for all official purposes and all changes to their identity have been properly evidenced.

If an individual applies **only** with documentation that **does not have a sex marker** recorded, for example if they have applied with alternative proof per the primary EUSS guidance, it is not required for a sex marker to be recorded on the case-management system. If the individual needs to be provided with a BRC, they must be contacted to be asked which marker should be recorded as per the instructions under 'Sex markers other than male or female'.

## Exceptions

When an applicant claims their country of nationality does not allow sex markers to be changed on identity and travel documents, they **must** provide evidence of this in the form of:

- official correspondence from their country of nationality confirming this position - a letter from the respective Embassy or Consulate in the UK would suffice to meet this requirement

And also submit either:

- a Gender Recognition Certificate (GRC)
- a medical note, signed and on headed paper, confirming they are either transitioning or have transitioned to another gender **and** evidence that clearly indicates they are living in their acquired gender for all purposes such as:
  - tax records
  - employment records
  - educational records
  - letter from central, regional or local government departments
  - driving licence (UK and overseas)
  - national ID card or equivalent
  - visa or residence permit
  - medical/health card
  - voters card
  - bank statement (UK applications only)
  - baptismal/confirmation certificate

Where you are satisfied they have provided satisfactory evidence, you can process their application using the sex marker appropriate to their acquired gender, so long as it is either 'male' or 'female'.

Cases where an applicant will be put at risk by approaching the authorities of their country of nationality should be handled on a case by case basis. Caseworkers should check country information available to them on the internal Home Office intranet or contact the Operational Delivery Standards and Guidance team in Her Majesty's Passport Office for country information to inform whether legal gender recognition is possible for the applicant in the country in question.

In **all** circumstances, if the applicant has also changed their name, you must ensure the applicant satisfies the evidence requirements of the Home Office Use and change of name policy. This includes ensuring the applicant has aligned all their foreign identity and travel documentation to reflect their change in gender and name. You can then process the application using the sex marker (male or female) appropriate to the acquired gender and the new name.

Where an applicant is unable to align their foreign identity and travel documents to reflect their acquired name and gender and they have been issued with a BRC in their acquired name and (male or female) sex marker, you **must** advise the applicant that some carriers may refuse to allow them to embark on their journey to the United Kingdom in writing. You must record on the relevant case-management system that correspondence detailing this was sent to the applicant. If the applicant does not contact you objecting to the risk of difficulty travelling with some carriers, you can process the application in the acquired name using a sex marker (male or female) that is appropriate for the acquired gender.



Holders of a BRC who have changed gender or name and gender **must** be issued with a new BRC in their acquired identity, providing all necessary evidence has been submitted.

Applicants who are non-EEA citizen family members of EEA citizens may wish to apply for a Family Permit in the details contained in their passport to facilitate their travel to the United Kingdom.

**Related content**

[Contents](#)

# Transitioning

An applicant may apply to the EU Settlement Scheme while transitioning to another gender. In such circumstances, the person's documented sex marker in their submitted identity document may not match their claimed gender.

Some examples of where a transition may be identified in an application are when an applicant presents:

- a valid passport and facial image indicating one gender but a name which suggests another gender
- a valid passport indicating one gender but a facial image and a name which suggests another gender
- a valid passport indicating one gender but a facial image suggesting another gender with no change in name
- a passport indicating one gender and a facial image suggesting some gender transition with no change in name

You **must** allow the application to be processed.

You **must not** record an applicant's change of gender or name and gender until they have changed **all of their** identity and travel documents to display the male or female sex marker associated with their acquired gender. If the applicant is legally prevented from changing their documents by the issuing country, you must follow the [exceptions](#) process before the change can be recorded.

Where a person has declared an alias and/or provided a facial image that suggests a gender identity different from the sex marker in their submitted identity documentation, you **must**:

- ensure that you are satisfied that the applicant is the legitimate holder of the documentation before proceeding
- contact the applicant to confirm that they want their application to proceed based on the information that has been submitted on their documentation
- if the applicant indicates in their response that they want their application to be considered in accordance with the new gender identity and name they must provide evidence that they have changed **all** of their travel and identity documentation to reflect their new identity **or** the evidence required set out in the [exceptions](#) process

If the applicant responds indicating that they want to be recognised in the sex marker on their submitted identity documentation, no further evidence is required. You **must** process the application as normal.

If the applicant indicates that they want to be recognised by a sex marker that is not the sex marker reflected in their submitted identity documentation but cannot provide the necessary evidence, you **must** process the application using the sex marker in the **identity documentation** submitted and contact the applicant to advise them of

this. If the documentation submitted has a sex marker other than male or female, follow the instructions in this guidance.

You **must not** record an applicant's change of gender or name and gender if they fail to provide you with all the necessary evidence.

#### **Related content**

[Contents](#)

# Holders of pre-settled and settled status

An applicant who has already been granted settled or pre-settled status under the EU Settlement Scheme may inform the Home Office that they have transitioned from one gender to another when they update their identity documentation details using the Update My Details service. An applicant may alternatively inform you that they are transitioning from one gender to another using correspondence.

An applicant for a change of gender, or name and gender must change **all** their travel and identity documentation to reflect their new name and gender. If this is not possible, you must follow the [exceptions](#) process when processing the request to change of gender or name and gender.

You **must not** register the applicant's change of gender or name and gender if they fail to provide all the necessary evidence to support their request to change the sex marker or sex marker and name on their records and, if they are a non-EEA citizen, their BRC.

## Related content

[Contents](#)

## Dual nationals (non-UK nationalities)

You **must** be satisfied that the applicant has updated **all** of their foreign identity and travel documents to reflect their acquired gender before you can proceed to grant status using a sex marker in accordance with their acquired gender.

It may be the case that the identity and travel documentation for dual nationals shows different sex markers in each country because one or both countries does not allow for sex markers to be changed on their identity and travel documents. In these cases, follow the [exceptions](#) process, as appropriate for each of the documents they hold in the different nationalities.

Dual national applicants for a change of gender **must** declare all nationalities that they hold **and** provide evidence that they have aligned their identity and travel documents relating to those nationalities.

You **must not** record an applicant's change of gender or name and gender if they fail to provide you with all the necessary evidence.

### Related content

[Contents](#)

# Change of name

Changes of name must be supported by documentary evidence, unless there are exceptional circumstances.

To register an official change of name with the Home Office, an applicant must provide **three-fold** evidence to:

- demonstrate a link between their old and new names – such as through a Gender Recognition certificate, deed poll, statutory declaration
- demonstrate the use of the new name for all official purposes – such as through tax records, bank statements, employment records
- show alignment of their name on foreign-issued identity documents, which includes passports and/or identity cards

As outlined in the exceptions criteria, transgender applicants whose national authorities do not recognise changes to sex markers on identity and travel documents will be able to change their name and sex marker on their Home Office issued documents or online status, provided they can demonstrate the use of the acquired name and/or gender for all official purposes and provide correspondence from the issuing authority for the unaligned documents stating that they do not recognise changes in sex marker and name for transgender people.

Applicants who have changed their name as well as gender must provide all required evidence for a change of gender, as set out in the [exceptions](#) process, in addition to the evidence of their name change. The same piece of evidence can be submitted in support of both changes, such as a valid foreign passport may be used to demonstrate both a change of name and a change of gender.

You **must not record** an applicant's change of name and gender if they fail to provide you with all the necessary evidence.

The exception to the requirement to align changes of name across foreign-issued documentation where a country does not recognise any name changes applies only to transgender applicants. You **must not** extend this exception to applications for a change of name that are not because of a change of gender. For changes of name where the person is not transgender, this guidance does not apply. You must follow the Use and change of name policy.

## Related content

[Contents](#)

Use and change names

## Related external links

[Change of name guidance](#)