



Department
of Health &
Social Care

Ordinary residence tool

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Purpose

Decisions as to whether a patient is entitled to receive secondary care services free of charge are the responsibility of the relevant body. In making this decision it will often be necessary to consider whether the patient is ordinarily resident in the UK. This tool provides examples of some of the relevant questions to consider and documents the patient could show as evidence indicating they are in the UK for a settled purpose, which is part of determining whether a patient is ordinarily resident.

The questions are not intended to be exhaustive or equally weighted. It should also be noted that there may be additional questions or evidence to consider when establishing whether someone is in the UK for a settled purpose, that are not included in this tool. Each patient will need to be considered on a case-by-case basis.

Definitions

A person is ordinarily resident if they are living in the United Kingdom:

- lawfully
- voluntarily
- for settled purposes as part of the regular order of their life for the time being, whether for a long or short duration

Pre-settled or settled status for EEA/Swiss nationals is not required if using this tool prior to 30 June 2021, but is required thereafter for EEA/Swiss nationals that were living or studying in the UK on or before 31 December 2020.

People that are subject to immigration control must also have indefinite leave to remain in the UK in order to be considered ordinarily resident.

The concept of “settled purpose” has been developed by the courts. There may be one purpose or several, it may be specific or general, and it may be for a limited period. All that is necessary in this context is that the purpose for living in the UK has a sufficient degree of continuity to be described as settled.¹

¹ Guidance on implementing the overseas visitor charging regulations – Ordinary Residence p. 24-28.

Principles of using the tool

It is important to note these principles when referring to this tool:

- questions listed below should only be asked if they are relevant to the individual patient. Evidence which is not relevant to an individual should not be requested
- the reason a question is answered “no” or the individual is unable to provide evidence should be considered when using the tool. For example, a person may not be able to provide a fixed address because they are homeless. Similarly, a person may be unable to provide bank statements because they do not have a UK bank account. In both examples, the individual may still be ordinarily resident

When to use this tool

This tool may be helpful in establishing ordinary residence and eligibility for free NHS secondary care for the following groups:

- UK Nationals
- from 1 July 2021, EEA/Swiss Nationals with EUSS²
- non-EEA/Swiss Nationals with indefinite leave to remain

When will this tool not be relevant?

Non-UK nationals who are subject to immigration control (the vast majority) cannot meet the ordinary residence test if they do not have indefinite leave to remain in the UK. Therefore, this tool will not be applicable when they do not have ILR.

Similarly, EEA/Swiss nationals that were living in the UK on or before 31 December 2020 can only meet the ordinary residence test from 1 July 2021 if they have been granted pre-settled or settled status under the EU Settlement Scheme. Therefore, this tool is not relevant if they have failed to apply.

² Before 1 July, EEA/Swiss nationals can be ordinarily resident regardless of EUSS status. After 1 July a late application to EUSS can be accepted by the Home Office where there are reasonable grounds. EEA/Swiss nationals that were living in the UK by 31 December can be joined by eligible family members who will need to apply to EUSS to be considered OR.

Additionally, non-UK nationals with temporary leave to remain of 6 months or more will be covered by Immigration Health Surcharge arrangements, so again it will not be necessary to use this tool with this cohort.

Finally, the following groups are exempt from charging for needs-arising treatment regardless of whether they are ordinarily resident. It is therefore not necessary to use this tool to consider if they are properly settled here if they are seeking needs-arising treatment only. They are:

- EU visitors with a valid healthcare document on a temporary stay in the UK, for example as tourists or short-term business visitors
- certain visitors from countries with whom the UK has a reciprocal healthcare agreement covering needs-arising treatment
- visitors from Switzerland, Iceland or Liechtenstein who arrived in the UK on or before 31 December 2020, for as long as their temporary stay continues. For tourists, this is until the end of their holiday; for students, this is until the end of their studies as long as they remain enrolled on their course of study and apply to the EU Settlement Scheme by 30 June 2021

Questions to consider

Question	Settled purpose consideration	Evidence the patient may have This list is not exhaustive
Have they been in the UK for the last 6 months or more?	<p>The longer a person has been in the UK, the stronger the indication that they are here for a settled purpose. However, it is important to note that:</p> <ul style="list-style-type: none"> • a UK national • a EEA/Swiss national that has been granted, or has applied for pre-settled or settled status • a EEA/Swiss 	<ul style="list-style-type: none"> • Bank statement with recent and regular UK transactions • Contract of employment • Enrolment in an education or training course • Pay slip/recent P60 • Job seekers allowance letter • UK self-employment

Question	Settled purpose consideration	Evidence the patient may have This list is not exhaustive
	<p>national with indefinite leave to remain, or</p> <ul style="list-style-type: none"> • a non-EEA/Swiss national with indefinite leave to remain <p>can be capable of being ordinarily resident providing they have come to settle here for the time being.</p>	<p>record</p> <ul style="list-style-type: none"> • Unique tax reference number • Universal credit/benefits letter <p>Evidence of utility/and or council tax bill payment</p>
Do they intend to remain in the UK for 6 months?	If a person intends to remain in the UK for a significant period, then it is likely they are here for a settled purpose.	<ul style="list-style-type: none"> • Contract of employment • Tenancy agreement • Evidence of mortgage repayments or of being in the process of purchasing a property • Evidence of utility/and or council tax bill payment • Evidence a child is enrolled in a school
Is their stay in the UK one of several regular and significant stays?	A person can be ordinarily resident in more than one country at once. If they are lawfully and properly settled in the UK, they will meet the ordinary residence test, even if they spend more of their time in another country of residence. Where a person has lived in more than one country for several years, consideration needs to be given to whether there	<ul style="list-style-type: none"> • International travel tickets • Evidence of activity during their time in the UK • Contract of employment • Enrolment in an education or training

Question	Settled purpose consideration	Evidence the patient may have This list is not exhaustive
	is a pattern of regular stays in the UK over the years that demonstrates a sufficient degree of continuity to establish a settled purpose in the UK.	course
Does their housing situation in the UK appear stable?	<p>Having a settled home in the UK may indicate that a person is ordinarily resident here. However not having a settled home does not preclude a person from being ordinarily resident here. The reasons why someone is not in a settled home are important to consider – it may be because of lack of means.</p> <p>Homeless people, for example, may be ordinarily resident in the UK despite being of no fixed abode.</p> <p>The same may be true of Travellers or other nomadic groups.</p>	<ul style="list-style-type: none"> • Evidence of mortgage repayments or of being in the process of purchasing a property • Tenancy agreement • Evidence of utility and/or council tax bill payment • Evidence of temporary housing provision • Evidence of ‘care of’ address • Declaration that the person lives in the UK but is of no fixed abode or is part of a nomadic group
Can they show that they are paying utility bills and council tax at their UK address?	Paying utility bills and council tax in the UK may indicate that a person is in the UK for a settled purpose. As above, the reasons for a person not providing this evidence should be considered when asking this question.	<ul style="list-style-type: none"> • Evidence of utility/ and or council tax bill payment
Are they employed, self-employed or a recognised job seeker in the UK?	Being employed, self-employed or a recognised job seeker in the UK are indications that the person is	<ul style="list-style-type: none"> • Contract of employment

Question	Settled purpose consideration	Evidence the patient may have This list is not exhaustive
	in the UK for a settled purpose.	<ul style="list-style-type: none"> • Pay slip/recent P60 • UK self-employment record • Unique tax reference number • Job seekers allowance letter • Department of Work and Pensions Job Centre registration letter • Universal credit/benefits letter
Do any close family also live in the UK?	Having close family living in the UK may indicate that a person has a settled purpose for being in the UK.	<ul style="list-style-type: none"> • Documentary evidence of close family members living in the UK
If they are the primary carer of school-age children, do they go to school in the UK? ³	Having children in school in the UK may indicate that a person is in the UK for a settled purpose.	<ul style="list-style-type: none"> • Letter from the school confirming attendance
If a student from the EEA/Switzerland, are they attending a course in the UK that began on or before 31 December 2020 and is longer than six months?	Enrolment in and regular attendance of a UK education or training course may be an indication that a person is in the UK for a settled purpose. Consideration should be given to whether the course requires regular attendance (i.e. is not a correspondence course) and is long enough	<ul style="list-style-type: none"> • Proof of enrolment letter • Proof of attendance letter • Student loan letter, where information is included on place of study

³ This may not be applicable if they are the primary carer of a school-age child that attends a boarding school.

Question	Settled purpose consideration	Evidence the patient may have This list is not exhaustive
	<p>in duration to require temporary settlement.</p> <p>Students from the EEA/Switzerland that began their course on or before 31 December 2020 also need to apply for EUSS by 30 June if their course is longer than six months.</p>	<ul style="list-style-type: none"> • Student accommodation tenancy agreement
<p>If a EEA/Swiss state pensioner that was living in the UK on or before 31 December 2020, have they registered an “S1” in the UK⁴?</p>	<p>Registering an S1 in the UK may indicate an intention to settle in this country. However, individuals might be unaware of the process, in which case they may still be in the UK for a settled purpose.</p>	<ul style="list-style-type: none"> • S1 form
<p>If a EEA/Swiss posted worker before 1 January 2021, have they registered an “S1” or “A1” in the UK?</p>	<p>Registering an S1 or A1 in the UK may indicate an intention to settle in this country. As above, not registering an S1 does not automatically mean an individual is not ordinarily resident.</p>	<ul style="list-style-type: none"> • S1 form • A1 form
<p>If the person has recently come to the UK, is there evidence of activity in another country that suggests that they are establishing residence here?</p>	<p>It should be noted that this evidence is not required to suggest settling here, since an individual can be OR in two countries at once.⁵ However, the following are examples of activities that may indicate the person has come to the UK as part of a settled purpose:</p>	<ul style="list-style-type: none"> • Evidence of property sale • Evidence of letting a property • Letters evidencing the end of employment/studies

⁴ It is important to note that registering an S1 is not a requirement for establishing ordinary residence and individuals might, for example, not have been aware of the process, but it is a strong indicator of ordinary residence in the UK. Someone who has registered such a form is entitled to NHS care for which the UK is reimbursed by the state paying their pension.

⁵ It is important to note that the fact that someone continues to own property or other assets elsewhere does not necessarily mean that they cannot be ordinarily resident in the UK.

Question	Settled purpose consideration	Evidence the patient may have This list is not exhaustive
	<ul style="list-style-type: none"> • Sale or letting of a property in the other country • Ending of a tenancy agreement in the other country • Ending of employment/studies in the other country • Shipping of belongings to the UK • Transfer of assets to the UK <p>Ending of insurance policies, utility contracts etc in the other country</p>	<ul style="list-style-type: none"> • Shipping documents • Asset transfer documents
<p>If they have recently been absent from the UK, was that absence temporary and not indicative of migration overseas?</p>	<p>The following are examples of temporary absences from the UK which might indicate an intention to settle on return:</p> <ul style="list-style-type: none"> • Travel for UK-based business or employment • Posting overseas as a part of an employment contract for a finite period • Temporary posting overseas from a UK charity or missionary organisation as a volunteer 	<ul style="list-style-type: none"> • Letter of study period/overseas posting ending • Letter from the UK-based organisation confirming the temporary nature of the posting overseas • An understanding of the employment/self-employment circumstances and why it requires significant absence from the UK <p>An understanding of the person's intentions to reside</p>

Question	Settled purpose consideration	Evidence the patient may have This list is not exhaustive
	<ul style="list-style-type: none"> • A defined, temporary period of study • A temporary period of travel, such as a 'gap-year' 	in the UK following absence for a temporary period of travel

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