



Home Office

EU Settlement Scheme: customer granted pre-settled status

Version 1.0

This guidance is for His Majesty's Passport Office staff dealing with passport applications for customers whose nationality claim is through a European Economic Area (EEA) citizen parent (or the family member of an EEA citizen) who was granted pre-settled status under the EU Settlement Scheme.

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About: EU Settlement Scheme: customer granted pre-settled status

This guidance tells HM Passport Office staff how to deal with passport applications where the customer's nationality claim is through a parent who:

- was granted pre-settled status under the EU Settlement Scheme
- has a Withdrawal Agreement right of permanent residence by carrying out a qualifying activity

This guidance includes references to:

- settled status, which must be read to include EUSS:
 - indefinite leave to remain (ILR); or,
 - indefinite leave to enter (ILE)
- pre-settled status, which must be read to include EUSS:
 - limited leave to enter (LLE); or,
 - limited leave to remain (LLR)
- EEA citizen and when it does, it must be read to include European Union (EU), European Economic Area (EEA) citizens and Swiss citizens
- Treaty rights and when it does, it means a qualifying activity in line with the Withdrawal Agreement

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 Guidance 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 team.

Publication

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

- version **1.0**
- published for Home Office staff on **3 March 2025**

Changes from last version of this guidance

This is new guidance.

Related content

[Contents](#)

EUSS application: customer granted pre-settled status

This section tells HM Passport Office operational staff what to do if a parent applied to the EU Settlement Scheme and held pre-settled status at the time of their child's birth.

Before a [legal judgement](#) the Home Office's position was that a person granted pre-settled status under the EU Settlement Scheme (EUSS) needed to make a second application, for settled status before their pre-settled status expired.

However, this judgment found that:

- residence rights under the Withdrawal Agreement held by those with pre-settled status do not expire for failure to make a second application to the EUSS for settled status
- a Withdrawal Agreement right of permanent residence is acquired automatically as soon as the conditions for it are met, and a second EUSS application is not required to obtain it

This means from September 2023, pre-settled status holders will automatically see their status extended by 5 years, if:

- they are approaching their original expiry date; and,
- UK Visas and Immigration have not granted them settled status

Whilst the Home Office continues to encourage pre-settled status holders to apply for settled status as the best way to prove their right to reside indefinitely in the UK, there is no longer a requirement to do so.

For passport applications this means a parent may have automatically acquired a Withdrawal Agreement right of permanent residence before their child was born, by exercising Treaty rights for a continuous 5 year period.

This means they will meet the definition of 'settled in the UK' in section 50 of the British Nationality Act 1981 even though UKVI systems show they only have pre-settled status.

Before HM Passport Office's examination staff deal with the application in line with this guidance, must always check to see if:

- the customer meets the criteria for a BC 10A BNA 81 OTBD nationality claim
- they can use the Residence Proving Service (RPS) to establish the customer's claim to British nationality

The [legal judgement](#) does not apply to children born in Crown Dependencies or British overseas territories.

The Dedicated Resource team (DRT) must deal with applications when either of the following apply:

- the parent only has pre-settled status at the time of the child's birth
- the parent was granted pre-settled status before the child was born and settled status after the child was born, but their child does not meet the criteria for a BC 10A BNA 81 OTBD nationality claim

How you (the examiner) deal with the application will depend on if the application is on the Digital Application Processing system (DAP) or the Application Management System (AMS).

Pre-settled status: application is on DAP

If you, the examiner, receive an affected application on the Digital Application System (DAP), you must:

1. Email the Treaty Rights triage letter - children born UK on or after 1 July 21 to the customer from your teams shared mailbox.
2. Put the application on hold for 1 week and add the following note:

'Application on hold as waiting for a response to 'Treaty Rights triage letter - children born UK on or after 1 July 21'

3. Wait for the customer to reply.

When you get the customer's reply, you must:

1. Read the customer's response.
2. Add the customer's response to DAP (see Scanning and uploading customer documents).
3. Deal with the documents received task when the customer's response is on DAP. You must select the **I can't do this** option to refer the application to your operational team leader (OTL) if either of the following apply:
 - the parents have been in the UK for [5 years or more before the customer was born and exercised Treaty rights](#)
 - the parents have been in the UK for less than 5 years but answered 'yes' to any of the questions that show they may meet an exception
 - have been in the UK for 5 years or more [but did not exercise Treaty rights](#)

You, the OTL, must reclassify the application as a complex Treaty rights application to put it back into the national queue. The Dedicated Resource team will then deal with the application.

You, the OTL, must refuse the application, in line with current guidance if the customer's response explains they have not been in the UK for five years and did not answer 'yes' to any of the questions that shows they may meet an exception.

Application is on DAP: no reply to triage letter

If the customer does not reply to the triage letter within 7 days, you must:

1. Put the application on hold for another 7 days.
2. Call the customer 14 days after you sent them the triage letter and ask if they have received it and if they could provide a response as soon as possible. You must:
 - put the application on hold for 7 days; and,
 - send them a copy of the triage letter if they did not receive the first one
3. Put the application back on hold for 7 days if the customer has not replied to the triage letter after 21 days.
4. Send the customer the triage letter and a reminder letter if they have not replied to the triage letter after 28 days and put the application on hold for 7 days.
5. Put the application on hold for 7 days if the customer has not replied to the triage letter after 35 days.
6. Call the customer 14 days after sending the reminder letter, if they have not replied to the triage letter, and ask if they:
 - received the triage letter (you must send them a copy of the triage letter if they tell you they did not receive it)
 - could provide a response as soon as possible
7. Put the application on hold for 7 days.
8. Send a final reminder and a copy of the triage letter to the customer 42 days after you sent the triage letter and tell them you will withdraw their application if they do not reply within 7 days.
9. Withdraw the application in line with current guidance if the customer has not sent you their reply to the triage letter after 49 days.

Pre-settled status: application is on AMS

You, the examiner, must refer affected applications to the Dedicated Resource team who will deal with the application.

EUSS pre-settled: how the DRT deal with passport applications

If you, the Dedicated Resource team (DRT), receive an affected DAP application, you must:

1. Check the customer's response to the triage letter.
2. Consider if the parents have been in the UK for 5 years or more before the customer was born and if you must deal with the application in line with:
 - EUSS pre-settled: parents in the UK less than 5 years before child was born

- [EUSS pre-settled: parents exercised Treaty rights for 5 years or more before the child was born](#)
- [EUSS pre-settled: parents did not exercise Treaty rights for 5 continuous years before the child's birth](#)

If you, the DRT, receive an affected AMS application, you must:

1. Send the Treaty Rights triage letter - children born UK on or after 1 July 21 to the customer.
2. Scan a copy of the letter to keep it as part of a permanent record.
3. Put the application on hold and wait for the customer's reply.
4. Check the customer's response to the triage letter.
5. Consider if the parents have been in the UK for 5 years or more before the customer was born and if you must deal with the application in line with:
 - [EUSS pre-settled: parents in the UK less than 5 years before child was born](#)
 - [EUSS pre-settled: parents exercised Treaty rights for 5 years or more before the child was born](#)
 - [EUSS pre-settled: parents did not exercise Treaty rights for 5 continuous years before the child's birth](#)

EUSS pre-settled: parents in the UK less than 5 years before child was born

If the parent [was not in the UK for 5 years or more](#) before their child was born, you (the DRT) must check their response to the Treaty Rights triage letter - children born UK on or after 1 July 21 to see if they meet an exception. The parents will meet an exception if they answered 'Yes' to any question that shows the claim parent:

- retired after being a worker or self-employed person in the UK for at least 12 months before retirement and lived continuously in the UK for a period of at least 3 years; or
- stopped work due to permanent incapacity after 2 years' residence in the UK
- are or were a worker or self-employed person in the UK who moved to work an EEA country and:
 - kept a place of residence in the UK
 - lived in the UK for at least 3 years
 - returned to their UK place of residence at least once a week; or
- are a family member of a person who meets the conditions in the 3 bullets above
- are a family member of an EEA citizen who died, who:
 - was resident in the UK as a worker or a self-employed person at the time of their death
 - lived in the UK continuously for a period of at least 2 years or who died as a result of their work

If they answered 'Yes' to any of the above, you must:

1. Ask the customer for evidence they exercised Treaty rights in the UK for 5 years or more (or they met an exception) (in line with the Treaty rights passport applications guidance).
2. Raise a guidance query and include:
 - the parents' Unique Application Reference Numbers
 - the date the parent made the EUSS application
 - the date UK Visas and Immigration granted the parents pre-settled status
 - the date the parents came to the UK
 - if the parent had retired, become incapacitated, moved to another country, had died or were a family member of any of these

The Quality, Examination Support team will respond to the guidance query and tell you what you must do. If they cannot answer the query, they may check with the European Migration Policy Enquiries team and provide a response for each case.

If neither of the parents were in the UK for 5 continuous years or more before their child's birth, and they answered 'No' to all the above exception questions, you must:

1. Call the customer to verify the date they provided, when they replied to the triage letter, is when they first come to the UK and they haven't been resident in the UK before that date.
2. Ask the customer for evidence they exercised Treaty rights (see Treaty rights passport applications) (if they tell you they were resident before the date they provided on the triage letter).
3. Add a case note to show the actions and decisions you made.

If the customer confirms the date they first arrived in the UK on the triage letter is correct, you must:

1. Add a case note to show the actions and decisions you made.
2. Add the mandatory case note:

'EUSS10 parent held PSS status ATOB but did not live in the UK for 5 continuous years or meet an exception'

3. Send letter 597 to the customer.
4. Scan a copy of letter 597 to keep it as part of a permanent record.
5. Refuse the application in line with the refusing passport applications and passport facilities guidance.

EUSS pre-settled: parents exercised Treaty rights for 5 years or more before the child was born

If the customer's response states they believe they were in the UK exercising Treaty rights for 5 continuous years or more before their child's birth, you must ask them for evidence they exercised Treaty rights (see Treaty rights passport applications).

When you get the evidence that confirms the parent exercised Treaty rights for 5 continuous years or more, you must:

1. Add a case note to record the actions and decisions you made and the mandatory case notes:

‘Child is BC 1(1)(b) BNA 81 OTBD from the date they were born’

‘EUSS11 parent held PSS status ATOB, lived in the UK for 5 continuous years and exercised Treaty rights before child’s DOB’

2. Issue the passport in line with current guidance.

HM Passport Office must not automatically refuse a passport application if the customer cannot provide evidence they exercised Treaty rights for the full 5 years. Instead, you, the examiner, must refer the application to your operational team leader (OTL).

You, the OTL, must:

1. Consider the application using a balance of probabilities assessment.
2. Ask the Quality and Examination Support team for advice (if you decide you should refuse the application).
3. Withdraw the application in line with current guidance if both of the following apply:
 - the customer cannot provide evidence they exercised Treaty rights for 5 continuous years
 - you do not have enough evidence to confirm the child’s claim to British nationality
4. Refer to [EUSS pre-settled: parents did not exercise Treaty rights for 5 continuous years before the child’s birth](#), if the customer can provide the evidence but it confirms they did not exercise Treaty rights for 5 continuous years before the child’s birth

EUSS pre-settled: parents did not exercise Treaty rights for 5 continuous years before the child’s birth

If the parents were in the UK for 5 continuous years or more before their child’s birth, but they did not exercise Treaty rights for the full 5 years or meet an exception, you must:

1. Add a case note to record your decisions and actions and add the mandatory case note:

‘EUSS12 parent held PSS status ATOB, lived in the UK for 5 continuous years but did not exercise Treaty rights for the full 5 years or meet an exception’

2. Send letter 597 to the customer.
3. Scan a copy of letter 597 to keep it as part of a permanent record.
4. Refuse the application in line with the refusing passport applications and passport facilities guidance.

Related content

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