



Home Office

Immigration Returns, Enforcement and Detention  
General instructions

# **EU, other EEA and Swiss citizens and their family members: consideration of administrative removal action**

**Version 7.0**

Valid after 30 June 2021

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# About this guidance

This document forms part of Immigration Enforcement General Instructions.

This guidance includes information in relation to individuals that have entered illegally in breach of a deportation order. In relation to other criminal deportation action see: Deportation guidance.

For detailed information about the general status of European Economic Area (EEA) citizens and their family members and their specific status in certain circumstances, see: European, EEA and Swiss nationals guidance.

For further information about how Border Force officers should deal with those with status under the EU Settlement Scheme (EUSS), with a pending valid EUSS application or who have been refused leave under the EUSS, see Border Force guidance: EU Settlement Scheme: Border Force.

This guidance provides Immigration Enforcement staff with information about the arrangements and processes in relation to EU, other EEA and Swiss citizens (hereafter referred to in the guidance as 'EEA citizens' except where a distinction is required) and their non-EEA family members following the UK's exit from the EU and the end of the post-exit transition period at 11pm on 31 December 2020.

It includes guidance (or links to other guidance) in relation to establishing the existence of their right to enter and remain in the UK and their entitlement to work and to access benefits and services. It also describes potential sanctions, including administrative removal, for those who have no pending valid EUSS application, have no EUSS or other status or deceptively claim they have status based on being an EEA citizen.

The aim of this guidance is to provide:

- advice on how individuals can evidence their rights in the UK and demonstrate their right to work and other entitlements
- advice on how we can protect the rights of those covered by the Citizens' Rights Agreements (including vulnerable applicants) and the safeguards that must be followed to ensure that EEA citizens and their family members who are in the UK lawfully are not incorrectly subjected to enforcement action
- an overview of the actions you might consider if the individual is not able to evidence that they are in the UK lawfully

## 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 Enforcement policy.

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 **7.0**
- published for Home Office staff on **21 April 2026**

## Changes from last version of this guidance

The guidance has been updated to reflect changes to Home Office systems. It has also been updated to reflect changes to the Immigration Rules made by Statement of Changes HC 1491 from 1 January 2026, deleting the Service Providers from Switzerland route which closed on 31 December 2025. No leave to enter will be granted or valid under this route after this date. That section in the guidance has been removed.

### Related content

[Contents](#)

European guidance

Common Travel Area guidance

EU Settlement Scheme caseworker guidance

Criminality guidance

Grounds for refusal – rough sleeping in UK

# Background

## Terms used in this guidance

**Administrative return consideration:** means, in the context of this guidance, the process of considering whether an individual is liable to administrative removal and, having identified and notified an individual they are liable, whether it is right to actively pursue and enforce their return.

**Administrative return – enforcement:** means in the context of this guidance, the process of pro-actively arranging and enforcing an individual’s return.

**28-day notice for EU Settlement Scheme (EUSS):** this notice provided individuals believed to be European Economic Area (EEA) citizens and / or their family members with information telling them that they now had to secure their right of residence by making a late application to EUSS within 28 calendar days of the notice being served (within 35 calendar days if received by post) and that failure to do so might result in their loss of access to services in the UK and a requirement to leave the UK. Service of the 28-day notice was ceased on 12 July 2023 and replaced with standard enforcement notices. See: [Notice of Liability to Removal](#).

**Citizens’ Rights Agreements:** (referred to in this guidance as the agreements) means the agreements under which EEA citizens living in the UK in accordance with the EEA Regulations before the end of the transition period at 11pm on 31 December 2020, and their family members (including third country national family members), can apply for residence status (under the EUSS) in order to continue to reside, study, work and access services in the UK. Under section 45 of the Border Security, Asylum and Immigration Act 2025, all EEA citizens and their family members with EUSS status are treated as having rights in the UK under the agreements, regardless of whether the EEA citizen’s residence in the UK before the end of the transition period was in accordance with the EEA Regulations. The agreements also provide for frontier workers and the healthcare cohort. See: European, EEA and Swiss nationals guidance.

**Common Travel Area (CTA):** refers to an administrative arrangement between the UK, Ireland, and the Crown Dependencies (Isle of Man, Guernsey and Jersey). The CTA is underpinned by domestic, not EU, legislation.

See:

- Common Travel Area guidance
- within this document – [Assessing evidence – entry from within CTA](#)

**EEA citizen:** a national of a member state of the European Union (EU), of one of the other member states of the European Economic Area (Iceland, Liechtenstein or Norway), or (for the purposes of this guidance) of Switzerland. Except in certain specific cases, an EEA citizen is not also a British citizen. Whilst Irish citizens are

EEA citizens, there are special arrangements for Irish citizens, see: European, EEA and Swiss nationals guidance.

**EEA Regulations:** the Immigration (European Economic Area) Regulations 2016.

**EU Settlement Scheme:** EU, other EEA or Swiss citizens, and their family members (including children and non-EEA citizens), who were resident in the UK by 31 December 2020 (regardless of whether this was in accordance with the EEA Regulations), were required to apply to the EUSS (by 30 June 2021, but can apply later where there are reasonable grounds for their delay in applying) to continue living in the UK beyond 30 June 2021. Successful applicants are granted 'settled status' (indefinite leave to enter or remain, generally where they have been continuously resident in the UK for at least 5 years) or 'pre-settled status' (limited leave to enter or remain for 5 years, which will be automatically extended before expiry, where they have yet to obtain settled status, for which they can apply as soon as they qualify for it).

**Frontier worker:** is an EEA national who pursued an economic activity in the UK by 31 December 2020 (by being employed or self-employed), and continues to do so, but is not primarily resident in the UK. Their travel to the UK can be occasional or ad hoc (for example, once or twice a year, or to complete occasional contracts) or regular (for example, working in the UK during the week and returning home at the weekend). The basic requirements to be a frontier worker are that the EEA national:

- is not primarily resident in the UK, which means they either:
  - spend less than 180 days in the UK in any 12-month period
  - return to their country of residence at least once every 6 months
  - return to their country of residence at least twice in every 12 months
- undertakes meaningful and effective work in the UK

Where an EEA national was a frontier worker by the end of the transition period, they will continue to have rights as a frontier worker for as long as they continue to be a frontier worker. It is also possible to "retain" rights as a frontier worker in certain circumstances. Frontier workers have a right to enter the UK and do not require permission to enter.

**Grace period:** the period provided for in Article 18(2) of the EU-UK Withdrawal Agreement (and equivalent provisions of the EEA EFTA Separation Agreement and the Citizens' Rights Agreement with Switzerland), which ran from the end of the transition period on 31 December 2020 until 30 June 2021, during which a right to reside under the EEA Regulations at the end of the transition period continued to apply.

**Transition period:** the period from the UK's withdrawal from the EU on 11pm 31 January 2020 until 11pm on 31 December 2020, during which EU law continued to apply in the UK.

**Joining family member (JFM):** a close family member of an EEA citizen (where that EEA citizen was resident in the UK before the end of the transition period and, with some exceptions, has EUSS status on that basis), who was resident outside the

UK at the end of the transition period (or is a child born or adopted in the UK or overseas since then) and who satisfies one of the following criteria:

- immediately before 11pm on 31 December 2020, was the spouse or civil partner of the EEA citizen or was the direct descendant under 21 or dependent, or the dependent direct relative in the ascending line, of the EEA citizen or of their spouse or civil partner
- immediately before 11pm on 31 December 2020, was the durable partner of the EEA citizen (and may now be their spouse or civil partner)
- is a child of the EEA citizen where the child's birth, adoption or guardianship was after 11pm on 31 December 2020 and where:
  - the other parent is also an EEA citizen with EUSS status based on their residence in the UK before the end of the transition period
  - the other parent is a British citizen
  - the EEA citizen (or the other parent where they are also an EEA citizen with EUSS status based on their residence in the UK before the end of the transition period) has sole or joint rights of custody of the child in accordance (with some exceptions) with the applicable rules of family law of the UK, of a Crown Dependency or of an EEA state or Switzerland

**Lawful residence / legitimate stay:** in this guidance, means residence in the UK in accordance with the EEA Regulations or extant leave under the EU Settlement Scheme.

**Non-EEA family member:** for detailed guidance concerning the definitions of who is considered to be a non-EEA family member, see: EU Settlement Scheme caseworker guidance.

See also:

- [Suspected marriage abuse](#)
- [Family members](#)

**Notice of Liability to Remove (NOL):** on 20 November 2023, Removal, Enforcement and Detention (RED) notices were replaced by the 'Notice of Liability to Remove' (NOL) as part of a wider set of changes to support the commencement of s.46 of the Nationality and Borders Act 2022. This legislation simplifies and standardises returns processes and puts the right to a minimum notice period into legislation.

**S2 Healthcare cohort:** residents of EU, other EEA States or Switzerland, who applied by the end of the transition period to have a course of planned healthcare treatment in the UK under the 'S2 route, are entitled (if that authorisation is granted) to travel to the UK to undergo the treatment. They may also be accompanied by another person such as a friend, family member or carer for the purpose of providing care and support during planned treatment. They may be any nationality but accompanying persons must reside in the EEA or Switzerland. Patients whose treatment is authorised are issued with an 'S2 certificate of entitlement to scheduled treatment' (also known as a 'Portable Document S2'). See: S2 Healthcare Visitor caseworker guidance.

**Saved rights:** the saved Immigration (European Economic Area) Regulations 2016 applied to an individual who was resident in the UK in accordance with them at the end of the transition period until the end of the grace period on 30 June 2021 or until their application for leave under the EUSS made by that date is finally determined.

**Signposting:** the general advice and information given to individuals who are identified as EEA citizens and who, although apparently eligible, indicate that they have yet to engage with the EUSS process. For most practical purposes, this is an explanation of how to access relevant on-line information and includes providing an information leaflet or a notice containing such details, in some circumstances it may be necessary to provide additional advice and support.

**Treaty rights:** in this guidance, refers to free movement rights afforded to EEA citizens and family members under the EU Treaties which had effect in the UK until 11pm on 31 December 2020.

## Background

The UK left the EU at 11pm on 31 January 2020. In accordance with the terms of the agreements, the UK entered a transition period until 11pm on 31 December 2020 and then a grace period was given until 30 June 2021, to allow EEA citizens and their family members resident in the UK before the end of the transition period time to secure their future status by making an application to the EU Settlement Scheme (EUSS).

An EEA citizen or their family member resident in the UK in accordance with the EEA Regulations at the end of the transition period (and who has not yet obtained leave under the EUSS) had relevant rights of entry and residence in the UK saved until 30 June 2021 and pending the outcome of an application to the EUSS made by that date (including any administrative review or appeal).

From 1 July 2021 onwards (save for those with a pending valid EUSS application or appeal, or joining family members prior to the relevant EUSS deadline), a person with rights under the agreements must have EUSS leave, have leave under the S2 Healthcare route, or be a frontier worker. For those EEA citizens and their family members who have already obtained EUSS leave, it is this leave that is the basis for their continuing lawful residence in the UK. From 1 July 2021 onwards (subject to pending applications or outstanding administrative reviews or appeals), a person who does not have any other status granted under or outside the Immigration Rules must have EUSS leave or fall within one of the other cohorts with rights under the agreements.

The ongoing challenge for Immigration Enforcement (IE) is to:

- identify and, where appropriate, assist those who have reasonable grounds for their delay in applying to the EUSS to secure status under it
- identify those who have rights under the Citizens' Rights Agreements (such as frontier workers) and identify those falsely claiming to have them

- identify those who have no leave, including those whose leave has been cancelled or curtailed
- take appropriate administrative removal action against EEA citizens and their family members, subject to the provisos detailed in this guidance, where the relevant statutory test is met

Those EEA citizens and their family members arriving in the UK on or after 1 January 2021 who are not covered by the agreements must successfully apply for leave, and meet the relevant immigration conditions, under the points-based system or another part of the Immigration Rules.

Those EEA citizens and their family members entering the UK via Ireland without any other form of leave or status are deemed to have leave, unless they are encountered during an intelligence-led control and are granted visitor leave. Those entering from one of the Crown Dependencies must have existing UK leave or leave granted by that Crown Dependency, which is recognised in the UK, and comply with the relevant conditions of that leave, unless they are encountered in the course of an intelligence-led control and are granted visitor leave.

Frontier workers continue to have declaratory rights to work when in the UK. See: [Frontier workers](#). From 1 July 2021 it is mandatory for non-Irish frontier workers to hold a frontier worker permit on entry to the UK for the purpose of exercising frontier worker rights.

Since 1 January 2021, EEA citizens wishing to provide services in the UK must have permission to do so.

See also:

- European, EEA and Swiss nationals guidance
- EU Settlement Scheme caseworker guidance – in relation to reasonable grounds for late applications

## **Related content**

[Contents](#)

# General principles

Since 1 July 2021 (save for those with a pending valid application to the EU Settlement Scheme (EUSS), with an outstanding appeal or administrative review against an EUSS refusal, or who are a joining family member prior to the relevant EUSS deadline), European Economic Area (EEA) citizens who require leave may be liable to removal if they do not have leave or are in breach of a condition of leave.

Some EEA citizens who are lawfully here may not always be able easily and quickly to satisfy you and other relevant bodies that this is the case. You must exercise the greatest care in establishing their rights and status. This guidance provides advice for a variety of possible [scenarios](#) but can never be a comprehensive guide and officers should consider the following general principles when investigating those that are or may be an EEA citizen or their family member.

## Outstanding EUSS consideration / appeals

Those who have made a valid application to the EUSS (whether late, as a joining family member or to convert from pre-settled to settled status), as evidenced by a Certificate of Application (CoA), are afforded temporary protection of their rights in the UK, pending the outcome of their application and any administrative review or appeal. Where relevant, investigation of fraud and other criminality should continue and details must be noted on Atlas for consideration by the caseworker.

## No evidence of leave, EUSS or otherwise: service of Notice of Liability of Removal (NOL)

The deadline for applications to the EUSS by EEA citizens, and their family members, who were resident in the UK by 11pm on 31 December 2020, was 30 June 2021. They can make a valid late application to the EUSS where there are reasonable grounds for their delay in applying. Further guidance on relevant deadlines and reasonable grounds is available in EU Settlement Scheme EU, other EEA, Swiss citizens and family members.

Those EEA citizens, and their family members, who were resident in the UK by 11pm on 31 December 2020 and who have not applied to the EUSS and have no other basis of stay, are liable for administrative removal. Following the cessation of the 28-day notice on 12 July 2023, officers must proceed to service of standard enforcement paperwork to such individuals.

Officers must continue to signpost individuals to appropriate methods of regularising their status in the UK where they can demonstrate substantive evidence of pre-end of transition period residence in the UK (by 31 December 2020). If a non-EEA citizen claims to have been resident in the UK by 31 December 2020, they will also need to provide evidence of their family relationship to an EEA national sponsor who (with some exceptions) has EUSS status based on their residence in the UK before the end of the transition period.

Note that EUSS status granted by one of the Crown Dependencies is recognised as EUSS leave granted by the UK. These individuals do not need to apply to the UK's EUSS for additional status.

## EEA citizens: liability to administrative removal or deportation

In the case of EEA citizens and their family members who are protected by the agreements and who are arrested for a criminal offence, consideration must first be given to when the criminality was committed. If the conduct was committed before the end of the transition period, their deportation must be considered under the EU public policy, public security or public health test. This also applies where there are reasonable suspicions the person has engaged in sham marriage behaviour before the end of the transition period. If the conduct was committed after the end of the transition period, deportation must be considered under the UK deportation threshold (on the ground deportation is conducive to the public good).

For EEA citizens and their family members who are not protected by the agreements, deportation will be considered under the UK deportation threshold, regardless of when the conduct was committed.

See also:

- within this guidance: [Examination and indicators](#)
- Conducive deportation
- EEA public policy and public security decisions

An EEA citizen or their family member may have entered the UK illegally and may be liable to administrative removal if:

- they entered the UK in breach of a deportation order,
- they entered the UK using false or fraudulent documentation
- they entered the UK via the Common Travel Area in certain circumstances - see the section on [Evidence of entry from within the CTA](#)
- they entered the UK either clandestinely or by deliberately circumventing UK border controls, within 12 months of a previous removal under regulation 23(6)(a) or 23(6)(c) of the EEA Regulations
- they entered the UK where not entitled to do so by virtue of regulation 23(1) or (3) of the EEA Regulations or regulation 12 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020
- they were issued with a 28-day notice for the EUSS but have failed to meet requirements of the notice
- they first entered the UK after the end of the transition period from 1 January 2021 and do not have valid leave or are in breach of a condition of their leave

See: [assessing evidence of status](#).

### Related content

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# Operational encounters / interviews: general principles and key points

Those individuals refused leave to remain having applied to the EU Settlement Scheme (EUSS) may be liable to administrative removal unless:

- they can show they have another right to remain, right of residence or citizenship; see: Safeguarding and establishing lawful residence
- they are exempt from immigration control
- they are subject to temporary protection as evidenced by a Certificate of Application

All such possibilities must be explored and the evidence for them carefully considered.

An individual refused under the EUSS following confirmation that they employed false representations and / or use of documentary deception, must provide evidence of any right to remain or be liable to administrative removal in accordance with the guidance 'Initial consideration and assessment of liability to administrative removal'. Consideration should be further given to prosecution for the offences described.

There may be individuals who may be eligible for status under the EUSS but did not apply by the 30 June 2021 deadline applicable to them. The general approach taken in respect of such individuals until further notice will be to serve a Notice of Liability to Remove (NOL) and signpost individuals to regularising their stay, either via the EUSS (where there are reasonable grounds for their delay in applying) or another route.

During all enforcement interviews: fully explain your purpose in establishing the person's status:

- act flexibly and sensibly in assessing available evidence where travel documentation and entry / exit records are not immediately available
- act objectively and based on all available evidence, without preconceptions about the likelihood of the individual being an European Economic Area (EEA) citizen based on any protected characteristic, or any other individual characteristics such as spoken language; see: Enforcement interviews

Where you are satisfied the individual is, or may be, an EEA citizen or their family member who is eligible for the EUSS but has yet to apply, a NOL should be served and the individual signposted to make a late application to the EUSS.

Where there are grounds to suspect the individual has vulnerabilities or needs that mean they require more help to make an application, you must act immediately to refer them to UKVI. See: [Vulnerability – identification](#).

## Examination and indicators of status

### EEA cohorts

EEA citizens that you encounter within the UK will be part of one of the following cohorts:

- those who have an outstanding application to the EUSS or an administrative review or appeal against refusal of such an application
- those who may be eligible for the EUSS but have not yet applied
- those who have been granted status under the EUSS - this will be either settled status (indefinite leave to enter or remain in the UK) or pre-settled status (5 years' limited leave to enter or remain in the UK)
- those who have been granted an EUSS family permit
- those who arrive from 1 January 2021, with either visitor leave or leave under the points-based system
- those who have been issued with a [frontier worker](#) permit
- those who are eligible for a frontier worker permit but have not yet applied, or are Irish and therefore not required to hold a permit
- those who require leave but do not have it, for instance, clandestine and/or deceptive illegal entry
- those who entered lawfully from 1 January 2021 but have overstayed the period of leave which they were granted
- those who have been granted entry clearance or permission to stay as an S2 Healthcare Visitor
- Irish citizens who do not require leave to enter or remain in the UK under s.3ZA of the Immigration Act 1971: see Common Travel Area (CTA) guidance
- those who may have been eligible for the EUSS in a Crown Dependency but have not yet applied or who have an application pending (see: [Crown Dependency EUSS](#))
- those who have been granted status under one of the Crown Dependency's EUSS or other Crown Dependency leave - this will be either settled status (indefinite leave to enter or remain in the relevant Crown Dependency) or pre-settled status (5 years' limited leave to enter or remain in the relevant Crown Dependency) - this status is recognised in the UK as if it were status granted under the UK's EUSS
- those who are joining family members until the relevant deadline for an application to the EUSS - see: [family members](#)

### Crown Dependency EUSS applicants

An individual may have made an application to a Crown Dependency's EUSS. Whilst the application is outstanding in Jersey or Guernsey, an individual is deemed to have leave in that jurisdiction and that is then recognised in the UK. Whilst the application is outstanding in the Isle of Man, they continue to have saved rights in line with those in the UK. However, those rights are not recognised in the UK, the individual must have some other form of status granted by the UK (for example, visitor leave). The fact they have an outstanding application in the Isle of Man is not relevant.

Once an individual's application to one of the Crown Dependency's EUSS has been granted, the individual's status is recognised as if it were status granted under the UK's EUSS – including those granted under the Isle of Man's EUSS.

See also: [Evidence of entry to the UK from within the Common Travel area](#).

## Interviewing and examining EEA citizens

This section is about enforcement interviews conducted during operations with individuals that may be EEA citizens or their family members.

Any examination of available evidence also provides the opportunity to consider evidence or suspicion of vulnerability. See: Identifying people at risk.

The Enforcement interviews guidance must be followed when encountering any person on a visit or operation and applies equally to those who claim to be, or there are grounds to suspect that they are, an EEA citizen or their non-EEA family member. **You must ensure that you are fully aware of and understand the information in that guidance relating to exploratory questioning.** The purpose of exploratory questioning is to form a view of whether the individual is potentially related to the intelligence basis for the operation or that they are subject to immigration control and whose status may warrant further, formal examination in accordance with [paragraphs 2 and 2A of schedule 2 to the Immigration Act 1971](#).

More generally, exploratory questioning is necessary to eliminate individuals from an enquiry as quickly as possible. Exploratory questioning is consensual in nature, and with the cooperation and consent of those present, you can establish general facts concerning identity, relationships, ownership or control of property, or potential exploitation. But a refusal to answer questions or provide proof of their status does not, of itself, constitute grounds to reasonably suspect that the person is an immigration offender but may be considered in conjunction with other evidence and circumstances.

You must attempt to establish through exploratory questioning whether the individual may be related to the intelligence basis for the visit. They may, during that conversation, give you cause to conclude that they may:

- be an EEA citizen or their family member or have retained a right of residence because of their relationship to an EEA citizen
- have exercised frontier worker rights in the UK

For those in the healthcare cohort, an accompanying person can be a family member, a friend, or a carer. There is no requirement for the accompanying person to be an EEA national.

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### Official – sensitive: start of section

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

### **Official – sensitive: end of section**

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If during exploratory questioning, the person tells you they are an EEA citizen or a non-EEA family member, explain that the Home Office wishes to ensure that EEA citizens with lawful status in the UK are properly recorded and safeguarded against misunderstandings that might affect their entitlements or access to services. If the individual indicates that they have settled or pre-settled status under the EUSS or an outstanding application under this scheme, but has no evidence to that effect, explain that they may, if they wish, give their consent for you to check documents in their possession and / or Home Office systems, to confirm that they have applied to the EUSS and/or to confirm their pre-settled or settled status.

If, during exploratory questioning, the person voluntarily produces satisfactory evidence of their lawful residence and there is no evidence of behaviour that meets the following criteria, their claim to lawful residence should be accepted, except where:

- information indicates that they have been refused EUSS status or have been served with a NOL and failed to regularise their status in the UK
- the person's conduct committed before the end of the transition period meets the EU public policy, public security, or public health test; for example, criminality or engaging in sham marriage behaviour as either a participant or facilitator
- the person's conduct committed after the end of the transition period meets the UK deportation threshold (on the ground deportation is conducive to the public good)
- there are reasonable grounds to suspect a fraudulent claim to be an EEA citizen, the individual is known or suspected to be involved in criminal activity, they are subject to an extant deportation order, exclusion decision or exclusion order, or have otherwise engaged in adverse behaviour that meets the threshold for enforcement action
- there are reasonable grounds to suspect the EEA national first entered the UK after the end of the transition period from 1 January 2021 and does not have valid leave or is in breach of a condition of their leave and does not have another right to remain, right of residence or citizenship and is not exempt from immigration control

In which case, continue with a schedule 2 examination.

## Conducting a Schedule 2 examination

See: Enforcement interviews.

If the information available to you following exploratory questioning suggests that they are or may be an EEA citizen or their family member, a frontier worker or a person with S2 Healthcare leave you must consider the available evidence and decide, on that basis, whether the individual sits within one of the following broad categories:

- an EEA citizen or their family member with leave (EUSS or S2 Healthcare)
- those with a pending EUSS application, administrative review or appeal and frontier workers
- EEA citizen or their family member resident in the UK by 31 December 2020 without EUSS leave or a pending application, administrative review or appeal – standard process applies
- all other EEA nationals and their family members – standard process applies

Clarify whether the individual has made a valid EUSS application, see: [outstanding EUSS consideration / appeals](#). Where you are satisfied of the person's evidence of identity and that a valid application to EUSS has been granted or is outstanding, take no further action.

If following exploratory questioning you have information or a reasonable suspicion that they require leave and do not have it, you must continue to examine their status.

If, because of that examination, you have reason to suspect that the documents presented may be stolen, being misused, are counterfeit, or that the person is not otherwise entitled to them, you may reasonably suspect that the individual is seeking to conceal their identity and status and may be a person subject to control under Immigration Act 1971 and liable to removal. However, in all circumstances, you must consider whether there are any grounds to suspect that they may be entitled to some other permission or residual right, for instance, a legacy right to citizenship.

See: [Safeguarding those that may have citizenship or residency rights](#).

## Substantive evidence assessment

During an encounter, officers must conduct a substantive evidence assessment to ascertain if an individual has a potential right to status under the EUSS. This assessment must aim to gain information on the following key areas:

- arrival – officers must aim to establish:
  - when an individual arrived in the UK
  - where an individual arrived in the UK and how they travelled
  - their reason for travelling
- accommodation – officers must aim to establish:
  - chronology of where an individual resided from arrival to present day
  - addresses of accommodation along with dates of residence

- who they resided with
- type of accommodation
- employment – officers must aim to establish:
  - chronology of employment from arrival to present day
  - type / types of employment
  - name and address of employer / employers
  - proof of payment, including National Insurance Number, payment of tax

Officers must request to see documentary evidence of individuals residence in the UK. This can include utility bills, banks statements, NHS or HMRC letters (list is not exhaustive).

Officers must note all documents seen and the dates of residence confirmed on caseworking systems (Atlas / PRONTO) but must not upload images of the documents as this may constitute a General Data Protection Regulation (GDPR) breach.

If officers are satisfied that an individual was resident in the UK prior to the end of the transition period, they must still serve a Notice of Liability to Removal and bail, along with verbally signposting the individual to [making an application to the EUSS](#), where they have reasonable grounds for the delay in applying. Officers can also signpost towards the support available around the scheme such as:

- organisations able to provide further support: [EU Settlement Scheme community support for vulnerable citizens - List of organisations](#)
- finding support locally: [Get help applying to the EU Settlement-Scheme](#)
- asking a question online at: [Ask a question about applying for settled status](#)

See also:

- EU Settlement Scheme EU, other EEA, Swiss citizens and family members
- Immigration Bail

## De-arrest following investigation

A person properly arrested on suspicion of being liable to removal who subsequently claims to be an EEA citizen or their family member and provides grounds to suspect that they may have residence rights of any kind, should be de-arrested in accordance with arrest and restraint guidance, and treated as per the advice elsewhere in this guidance unless:

- there is evidence of identity abuse and / or forgery raising reasonable suspicion that the individual is falsely claiming legitimate status
- the individual has also been arrested for criminal offences, or there are reasonable suspicions that they have engaged in sham marriage behaviour as either a participant or facilitator, and further consideration has to be given as to whether they meet the EU public policy, public security or public health test (where it relates to conduct committed before the end of the transition period) - criminality committed after the end of the transition period must be considered

under the UK deportation threshold (on the ground deportation is conducive to the public good)

See: EEA public policy and public security decisions and Conducive deportation.

## **Safeguarding those that may have citizenship or residency rights**

This section is about what you must do where a case is referred to you or if you encounter an individual who, although there may be little or no evidence of their status in the UK, claims to be a British citizen, to have a saved right by virtue of having applied to the EUSS before the end of the grace period, to have leave to enter or remain, or to be exempt from immigration control.

This is additional guidance to that contained in 'Safeguarding and establishing lawful residence' about the steps that must be taken in relation to those who may have been long resident in the UK or descended from people born abroad with a claim to be British. That guidance notes the difficulty that some people may have in demonstrating their lawful status in view of the complex development of UK nationality law and residence regulations; similarly, those who have enjoyed the right of freedom of movement under the EEA Regulations may have limited evidence to demonstrate their national status and residence.

Individuals encountered by, or notified to, Immigration Enforcement, or who have made an application to the Home Office, may claim to be British citizens, EEA citizens or their family members lawfully resident here or exempt from immigration control. In some circumstances, particularly those with very long residence and / or little recent travel or engagement with the Home Office, evidence may be more difficult to obtain.

Those who are unable to immediately provide proof of their status may not be able to do so for a variety of valid reasons and a careful assessment must be made to determine whether it is likely either that the individual is attempting to conceal their unlawful status or whether they have a credible claim to be lawfully resident. See: [assessing evidence](#). The following section provides examples of further consideration necessary in certain scenarios.

## **Common scenarios: enforcement visits and operations**

The following scenarios provide additional advice in relation to the '[assessing evidence](#)' section within this guidance. EEA citizens will not generally be the subject of operational tasking, but these scenarios may occur because of incidental encounters while visiting premises.

## EEA citizen with a (confirmed) pending valid EUSS application, appeal or administrative review

Officers must verify if the individual has submitted a valid online or paper application to the EUSS and if the application is still pending a decision, or the outcome of an appeal or administrative review, by checking the relevant systems (PEGA / Atlas).

The status of applications can be checked on Atlas and PEGA. Details of how to locate this can be found in the Control Points and Data Checks guidance.

If officers establish there is an outstanding valid EUSS application, appeal or administrative review, this is a barrier to removal and the individual will not be liable for removal unless and until they become appeal rights exhausted.

Enforcement action must be in accordance with the removal guidance, 'Initial consideration and assessment of liability to administrative removal' and Enforced Removals – notice periods.

## EEA citizen with substantive evidence of qualifying residence prior to the end of the transition period but no pending EUSS application

If officers are content that there is substantive evidence of qualifying residence (by 31 December 2020) following the completion of the substantive evidence assessment, they will need to proceed to service of a NOL, verbally signpost to the EUSS to make a late application if they have reasonable grounds to do so, and place the individual on immigration bail.

Officers must task Reporting and Offender Management (ROM) with a 'New Reporting Request' on Atlas and add the Person Alert '**EEA – Potential Route to Lawful Residency**' to Atlas.

This will alert ROMs that the individual is an EEA citizen with substantive evidence of qualifying residence and ROM workflow will apply the appropriate managed reporting appointment (MRA) intervention. This will ensure the reporting officer needs to include the EUSS annex when conducting the First Reporting Event.

## EEA citizen with no substantive evidence of qualifying residence prior to the end of the transition period

If officers are content that there is no substantive evidence of qualifying residence (by 31 December 2020) following the completion of the substantive evidence assessment, they will need to proceed to service of a NOL and [prepare for removal](#) where appropriate.

A decision can be made to bail or detain as per the standard enforcement approach with due regard to any vulnerabilities presented or other mitigating factors that may

render detention for removal inappropriate. HEO authority is still required to authorise detention.

If proceeding to bail, officers must serve a Bail 201 notice with a date / time for a first reporting event for **at least 2 weeks from the date of service of the NOL**.

## Entry in breach of a deportation order

A deportation order (DO) made under the EEA Regulations automatically invalidates leave and cancels residence rights under the EEA Regulations. Only those persons who were lawfully resident in the UK before the end of the transition period and have an outstanding application to the EUSS made before 1 July 2021 will have residence rights under the EEA Regulations. A DO not made under the EEA Regulations does not cancel these residence rights.

**For full details of consideration of cases where there is an extant DO, see Criminology guidance – entry in breach of a DO.**

Subject to the overriding factors mentioned above, an individual who has entered the UK in breach of an extant deportation order is an illegal entrant and liable to be removed. A person who is the subject of a DO will be refused EUSS status. Status as an actual or claimed EEA citizen or their family member is not material to that fact and action to consider and / or enforce removal may continue provided that:

- any leave wrongly obtained or obtained by deception following entry is cancelled
- the individual is the person named on the order and that any dispute on this has been resolved
- full consideration has been given to usual considerations of relevant vulnerability and / or human rights

See also: [assessing evidence / deciding next action](#) including levels of authorisation.

## Frontier workers

Establish whether the individual has a Frontier Worker permit:

- ascertain what right to work checks were undertaken and when
- record encounter on Pronto

Those declaring themselves to be frontier workers are required to have presented a permit on entry to the UK. Frontier workers who cannot produce a valid permit should be warned that they must present a valid permit on their next entry to the UK.

See: [Public guidance on Frontier Worker requirements and regulations](#)

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**Official – sensitive: start of section**

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**Official – sensitive: end of section**

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## Long term resident / worker – non-engagement with the EUSS

Example: EEA citizen who has been living and working in UK since 2002 encountered during enforcement visit to business premises. Individual has not yet applied to the EUSS and states that he has no intention to.

In these circumstances:

- ascertain what right to work checks were undertaken and whether appropriate documents were seen and recorded, when employment commenced – or whether any subsequent right to work checks were made and evidence retained
- people with a right of permanent residence under the EEA Regulations needed to apply to the EUSS by the deadline of 30 June 2021 – those remaining after the grace period ended who have not taken steps to establish a lawful basis of stay and who now require leave must be able to demonstrate that they have it or be liable to removal, subject to the advice provided in [vulnerability issues](#)

## Crown Dependency EUSS status or pending application

Example: An individual states they have EUSS status granted by, or an outstanding EUSS application with, a [Crown Dependency](#).

Actions:

- consider their claim of EUSS status or application, by examining their statements and / or checking any documentation presented
- consider confirming their EUSS status on IT systems, and / or with the relevant Crown Dependency
- you may wish to contact the relevant Crown Dependency for confirmation of an individual's outstanding application

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## **Official – sensitive: end of section**

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### Evidence of criminality / anti-social behaviour

If there is evidence of criminality, consideration must be given to whether it is appropriate to refer the information to Foreign National Offender Returns Command to consider deportation action. If the person is protected by the agreements and conduct was committed before the end of the transition period, their deportation must be considered under the EU public policy, public security or public health test. Where conduct was committed after the end of the transition period, deportation must be considered under the UK deportation threshold (on the ground deportation is conducive to the public good).

For a person who is not protected by the agreements, deportation will be considered under the UK deportation threshold, regardless of when the conduct was committed.

If conduct does not meet the threshold for deportation consideration, consideration must be given to whether to cancel or refuse a person's leave. Further guidance can be found at: Part Suitability.

### Rough sleeping

See: rough sleeping in UK.

### Suspected marriage, civil partnership or durable partnership of convenience

Any EEA citizen who has:

- entered or attempted to enter into a sham marriage
- assisted someone else to enter or attempt to enter into a sham marriage, whether or not it was successful

but who is also confirmed as not having protected rights under the agreements (for example, EUSS status has been refused on suitability grounds), may be liable for administrative removal under section 10 of the Immigration and Asylum Act 1999.

EEA citizens who are confirmed as having protected rights under the agreements and who have been found to have engaged in the sham marriage behaviour listed above prior to the end of the transition period, may be considered for deportation on EU public policy grounds. See: EEA decisions on grounds of public policy and public security.

Curtailment of pre-settled status can also be considered where it is more likely than not that, after the transition period, 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.

Frontier workers who have been found to have engaged in the sham marriage behaviour listed above, may be liable to deportation on grounds of public policy under the [Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020](#).

A non-EEA national found to have engaged in a marriage of convenience may also be liable for administrative removal on sham marriage grounds.

See: guidance – Marriage investigations for full details on the various removal pathways scenarios of those subject to a sham marriage determination.

## Disputed or unknown residence / citizenship rights

See within this guidance:

- [General principles](#)
- [Safeguarding those that may have citizenship or residency rights](#)

## Evidence of possible right or permission to stay emerges following administrative arrest

Example: An individual is properly arrested because there are [reasonable grounds](#) to suspect they are liable to removal. They or their property is searched and / or further physical or verbal evidence is obtained that suggests they may have a lawful basis to be in the UK, such as being a frontier worker or having a pending EUSS application, administrative review or ongoing appeal against the refusal of an in-time EUSS application, another right or permission to stay.

Example: An individual is arrested after leaving a premises in a manner suggesting a clear attempt to evade investigation. See: Arrest and restraint – pursuit. They or their property is searched and/or further physical or verbal evidence is obtained from elsewhere suggesting they may have a basis to stay.

Actions:

- question the person in order to ascertain the reasons for their actions, for example, the reasons for apparently trying to evade you or presenting misleading information

- consider their claim of withdrawal agreement rights, by examining their statements, checking any documentation presented or completing a check of relevant IT systems

## Right to work / rent: consideration of civil penalty

Immigration, Compliance and Enforcement (ICE) teams must consider whether it is appropriate to make a referral to the Civil Penalty Compliance Team (CPCT) in relation to breaches of either civil penalty scheme.

Where a NOL is served, there will usually be no requirement to make a referral to the CPCT; however:

- where there is unsatisfactory or no evidence that the individual has a reasonable, credible claim to be an EEA citizen or married to or related to an EEA citizen, the individual has no other basis of stay and they have been served with a NOL or other notice notifying them of their liability to removal, you must pursue any evidence of breaches of the civil penalty schemes carrying out the appropriate right to work or right to rent interviews with the individual and employer / landlord (if present)
- where no evidence exists of the individual's right to work or rent, evidence of the employer or landlord's liability for a civil penalty must be gathered and recorded on Pronto in the normal way and referred to CPCT who will determine if a Civil Penalty Notice will be served
- where there is any dispute to residency rights, any referrals made to CPCT will be thoroughly reviewed and status examined before any action is taken in respect of a penalty

## Police request for advice – NCCU

Police contact National Command and Control Unit (NCCU) for advice in relation to an EEA citizen.

If criminal action is ongoing following a police arrest and there is no record of an EUSS application, NCCU to follow Pronto referral process to relevant ICE team depending on geographical location of custody. ICE to consider conducting a telephone interview to ascertain detail for consideration of service of a NOL.

If criminal action is discontinued or the police grant bail, and there is no record of an EUSS application, NCCU should obtain a current address for the individual. If a NOL is to be served, NCCU to make a referral to the relevant ICE team via Pronto depending on the geographical location of the individual's arrest. ICE team to serve a NOL by post.

In both instances, ICE to complete the encounter in Pronto and raise a C&E card, document the encounter in EAR (enforcement service) and where applicable, document the service of Notice of Liability.

### Related content

[Contents](#)

# General principles: Returns preparation

## Review and initial consideration

An individual who was properly notified of their need to establish their right of stay but failed to do so is liable to consideration of administrative enforcement action in accordance with the guidance Initial consideration and assessment of liability to administrative removal subject to the safeguards detailed in this document and those contained in Safeguarding – establishing lawful residence.

Consideration of the status of individuals and their family members during any initial encounter may have been based on incomplete information. As such, further consideration by National Returns Preparation Command (NRPC) caseworkers in relation to possible administrative removal must take account of all available information including that contained in Home Office records, independent health assessments, witness statements, submissions, and representations. A full and comprehensive assessment of the individual's immigration history must be completed, ensuring all previous engagement is considered.

Consideration of whether it is right to continue with or initiate administrative removal action must be based on the individual circumstances of each case. Consideration of relevant circumstances includes but is not limited to:

- known criminality and / or anti-social behaviour
- engagement in sham marriage behaviour as either a participant or facilitator; see Marriage investigations
- false representations and / or deception employed during an application for EUSS suitability
- known or suspected vulnerabilities that make it unreasonable or unrealistic to effect enforced removal - see: Appendix FM, Adults at risk in immigration detention guidance
- new, substantive, representations concerning legality, policy and procedure

Appeal rights must be exhausted before administrative removal action is taken, including any administrative review or appeal against refusal of EU Settlement Scheme (EUSS). Where administrative removal is considered appropriate, a Notice of Liability of Removal (NOL) may be served, along with a Section 120 notice when it is considered necessary to invite further grounds to determine eligibility to make a late application to the EUSS.

Form IS151a (EEA) is no longer to be served except in some voluntary departure cases (see: Voluntary and assisted departures guidance). This includes those whose status and any associated offences can be traced and determined prior to 1 January 2021 and who might, at that time, have been liable to removal because they were not exercising treaty rights. Extant appeals against decisions under the European Economic Area (EEA) Regulations in force before 1 January 2021 are still valid and

must be processed appropriately. Equally, appealable decisions made under the saved EEA Regulations during the grace period continue to generate an appeal right and will be considered and determined.

Where representations indicate that an individual is eligible to apply under the EUSS, they should be signposted towards making an EUSS application to regularise their status in the UK.

Where there are grounds to suspect the individual has vulnerabilities or needs that mean they require more help to make an application, act immediately to refer them to UKVI See: [Vulnerability – identification](#).

Following the service of a notice of liability to removal, bail conditions can be imposed as appropriate, including reporting restrictions. It may be appropriate to await consideration of any representations following a statement of additional grounds before imposing such restrictions. The establishment of reporting restrictions may offer a further opportunity to obtain information regarding vulnerabilities or mitigating circumstances for not applying to the EUSS.

Status granted by the EUSS supersedes previous notice of liability except where there is an extant deportation or exclusion order.

If an individual applied under the EUSS and the application has been refused, all appeal rights must be exhausted, and a full assessment of all relevant circumstances completed before further deciding appropriate action. Where the individual holds no protection under the agreements, the case may be considered for administrative removal action - applying the [evidence assessment](#).

## **National Returns Preparation Command and FNO RC: request for further evidence**

National Returns Preparation Command (NRPC) and Foreign National Offenders Returns Command (FNORC) officers may write to individuals requesting further evidence in support of representations in order to assess / clarify the person's individual circumstances prior to making a decision on how to resolve the case.

## **Representations and submissions**

New information that is relevant to the decision to initiate or continue enforcement action must be fully considered. However, where the information submitted has already been considered substantively and the grounds for refusal are soundly based then removal action may continue subject to renewed authorisation.

## **Extant EEA administrative removal cases**

EEA citizens and their family members who, prior to 1 January 2021, were served with notice that they are liable to removal (extant cases) remain liable to removal. Cases must be reviewed following any appeal determination and / or at the point of the variation of bail conditions and assessed against this guidance to confirm that the

individual has not obtained EUSS leave. If, following review, it is right that removal action should continue, the individual must be served with a NOL and notified of the reason for the decision in accordance with the guidance Initial consideration and assessment of liability to administrative removal:

- extant appeals against an IS.151B (EEA) served by 31 December 2020 should continue to determination and further action to enforce removal must be decided following full consideration of the individual circumstances of the case - enforced removal action, including service of notice of liability and / or notice of removal, may only proceed on confirmation that any EUSS application has been refused and appeal rights are exhausted

See also:

- EUSS family permits
- European, EEA and Swiss Nationals guidance

## Scenarios: Returns consideration and preparation

### Family members

See also:

Family separation

Free movement rights – direct family members of EEA nationals

### Joining family members

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 for making an EUSS application is within 3 months of the date they first arrived in the UK after the end of the transition period, unless you are satisfied by information provided with the application that, at the date of application, there are reasonable grounds for the person's delay in applying.

Those encountered have 3 months from first arrival in the UK after the end of the transition period to submit their application. Where you are satisfied that they are within this timeframe, you should not serve a NOL. However, note that EUSS family permits are issued with six months' validity and, where such a permit remains valid, a NOL should not be issued.

The EEA citizen sponsor must have been resident in the UK by 31 December 2020 and (with some exceptions) have EUSS status on that basis. You must check that a third country national (TCN) (or an EEA citizen entering the UK from 1 January 2021) is not a JFM before commencing any enforcement activity.

Status assessment:

- review TCN family member claims to determine whether they hold any leave or have a pending application to the EUSS (or appeal or administrative review)
- if the basis of their stay in the UK is not apparent from information / evidence we hold, we may seek to verify rights by requesting further evidence from the individual

Review all known information held including the reasons for previous refusal decision, criminality, family life, and vulnerabilities. Consideration should be given to administrative removal as detailed in marriage investigations – removal pathways.

## Post appeal scenarios

Approach:

Extant appeals against an IS.151B (EEA) served by 31 December 2020 should continue unless superseded by a successful application for leave. Where the appeal is dismissed in such cases and there is no other basis of stay removal action may continue in accordance with Initial consideration and assessment of liability to administrative removal.

## Leave obtained by deception – including under the EUSS

Example: Where leave is sought or obtained by deception, including sham marriage and fraudulent EUSS applications, and where it is established that the individual is not an EEA citizen.

Further action to remove may only proceed on confirmation that the individual is not eligible for or has been refused EUSS leave and must be considered in reference to [Appendix EU](#) and Initial consideration and assessment of liability to administrative removal.

Where deception is employed, but the individual is an EEA citizen, a NOL may be served, authorised by at least grade 7, notifying liability to removal, unless they are the subject of a sham marriage determination (as either a facilitator or participant) which must be referred to NRPC for consideration of the appropriate removal pathway in line with marriage investigations – removal pathways.

The Status Review Unit (SRU) may first need to curtail / revoke EUSS leave before removal action continues. Officers must complete the appropriate proforma for curtailment or revocation of EUSS status and send to the Status Review Unit (EUSS) inbox.

See also: Suitability: false representations.

Note that in-country curtailment or revocation of EUSS leave gives rise to a right of appeal that is suspensive of removal and you must ensure that removal action is suspended where an appeal is made against such a decision to curtail or revoke leave. If the individual leaves the UK of their own accord, the appeal does not lapse as the right of appeal can also be exercised from abroad. See: Current rights of appeal.

Any decision to curtail or revoke EUSS leave granted by a Crown Dependency must first be discussed with that Crown Dependency before any action is taken. See: Common Travel Area (CTA) guidance.

See also: Suitability: false representations.

### **Related content**

[Contents](#)

# Assessing evidence / deciding next action

The continuing challenge for Immigration Enforcement (IE) is in distinguishing between the Citizens' Rights cohort resident in the UK by 31 December 2020 but who did not apply for EU Settlement Scheme (EUSS) status, those otherwise protected by the agreements, and other European Economic Area (EEA) citizens and their family members who arrived after the end of the transition period.

## Establishing evidence of lawful entry, residence, or rights under the citizens' rights agreements

See also: [GOV.UK – advice to EUSS applicants concerning documentary evidence.](#)

### Evidence of leave granted by EU Settlement Scheme

For further information about how to check PEGA and Atlas for EUSS applications and status, see: Control points and data checks. Note that it is imperative that complete records searches are conducted, as per the 'Control points and data checks' instructions, which should include biographic searches if no records are otherwise traced – this helps ensure that any evidence of current grants of UK leave are not missed and helps avoid improper action being taken as a result.

### Evidence of entry from outside the Common Travel Area (CTA)

See also: Border Force guidance.

EU, other EEA and Swiss citizens cannot use an EU, other EEA or Swiss national ID card to enter the UK after 1 October 2021 unless they:

- have pre-settled or settled status under the EUSS
- have an EUSS family permit
- have a frontier worker permit
- are an S2 Healthcare Visitor
- have a pending valid application to the EUSS (not as a joining family member unless they have a valid or expired EUSS family permit)

In the cases above, they can continue to use their national ID card to enter the UK (until further notice where it is not compliant with international standards on biometrics).

EEA citizens other than Irish citizens require permission to enter the UK. An Irish citizen does not require a grant of permission to enter, unless they are subject to a deportation order, exclusion order or international travel ban.

EEA citizens, other than Irish citizens, who do not already have a UK immigration status also require an Electronic Travel Authorisation (ETA) – a digital permission to

travel. Visitors without an ETA will not be able to board their transport and cannot travel to the UK, unless exempt.

EEA citizens, other than Irish citizens, require a marriage visitor visa if they are travelling to the UK for the purpose of giving notice of marriage or civil partnership, or to marry or form a civil partnership whilst here, and are subject to the conditions attached to that visa.

EEA citizens are eligible to use eGates at ports of entry, provided that they are aged 10 years or over and are travelling using a passport with a biometric chip. EEA citizens who are otherwise exempt from control, for instance those with diplomatic status, are also entitled to use eGates. The only exception to this is EEA citizens who require a passport endorsement, that is Creative Worker visa (Temporary Work) Certificate of Sponsorship (CoS) holders.

EEA citizens who have immigration status or digital permission to travel (ETA) do not receive an endorsement in their passport and are able to use eGates, provided that they meet the eGate eligibility criteria.

EEA citizens without immigration status (with the exception of Creative Worker visa (Temporary Work) CoS holders) do not receive written permission to enter such as a passport endorsement; they are either granted permission to enter orally by a Border Force officer or automatically obtain permission to enter as a visitor for 6 months on successfully passing through an eGate. This permission is subject to standard visitor conditions unless the passenger qualifies as an S2 Healthcare Visitor or frontier worker, in which case, those conditions apply.

Family members of EEA citizens who have been granted status under the EUSS or hold an EUSS family permit do not receive an endorsement in their passport when they cross the border.

Family members of EEA citizens who are B5JSSK nationals (Australia, Canada, Japan, New Zealand, Singapore, South Korea, USA) can also use eGates and also do not receive passport endorsements (with the exception of Creative Worker visa (Temporary Work) CoS holders) when entering with existing permission or as a visitor. All other nationalities will continue to receive a passport endorsement on arrival unless they are entering with EUSS leave or an EUSS family permit.

## Evidence of entry to the UK from within the Common Travel area (CTA)

See: Common Travel Area guidance.

Anyone travelling within the CTA must meet the immigration requirements of the places in the CTA that they will travel to (so someone who enters Ireland and then travels to the UK must meet both the immigration requirements of Ireland and the UK).

If an EEA citizen enters the UK via Ireland they may have 'deemed leave', for 6 months (or 2 months of deemed leave where they have previously visited the UK on

the basis of deemed leave and have not left the CTA before that subsequent visit). **Deemed leave does not confer a right to take employment** – the business visitor activities they may undertake are listed in Common Travel Area guidance.

An individual can only benefit from deemed leave if they do not hold another immigration status in the UK (this includes an EEA citizen who has leave granted under the EUSS) or if they do not fall into one of the exemptions to deemed leave.

Where an individual falls into one of the following categories, they will enter the UK on that basis and do not receive 'deemed leave':

- those who have a right of abode in the UK
- Irish citizens who do not require permission to enter or stay
- those who have permission to enter or stay in force which was given to them before arrival
- those who have entry clearance which confers permission or those who have continuing permission under the Immigration (Leave to Enter and Remain) Order 2000, including those who hold an EUSS family permit
- those who are exempt from control (for example diplomats)
- those who have been granted pre-settled status or settled status under the EUSS
- those who have made a valid application under the EUSS whose application has yet to be determined
- those who are a frontier worker under the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020)

In all other cases, the individual is entitled to 'deemed leave' when entering via Ireland, unless they fall under one of the exceptions detailed in Common Travel Area guidance, in which case they have entered illegally.

These exceptions are:

- a person subject to a deportation order
- a person whose exclusion has been deemed conducive to the public good
- a person who has previously been refused leave to enter the UK and has not subsequently been granted any leave
- any person who arrives (by ship or aircraft) in the UK from outside the CTA, having transited through Ireland, without passing through the immigration control there
- a visa national not in possession of a valid UK entry clearance
- any person who entered Ireland unlawfully from outside the CTA, including those who have deceived an Irish immigration official about their future intentions and then sought entry to the UK
- a person who enters the UK or Crown Dependencies unlawfully and who then travels directly to Ireland before returning to the UK
- a person whose leave to enter or remain in the UK expired (including through cancellation) before they left the UK for Ireland, and did not subsequently leave Ireland before returning to the UK

- a person who has been refused or subject to a removal decision under the EEA Regulations or the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020 and has not subsequently been granted leave or admission

Any leave that is given in the Crown Dependencies has effect as if it had been given by the UK. So, when a passenger arrives with leave that was granted by any of the Crown Dependencies, that individual does not require any further leave to enter. An individual arriving from the Crown Dependencies only requires leave to enter if they are:

- a person subject to a deportation order
- a person whose exclusion has been deemed conducive to the public good
- a person who has previously been refused leave to enter the UK and has not subsequently been granted any leave
- a person who no longer has permission in the relevant Crown Dependency and then arrives in the UK direct from the Crown Dependencies
- a person with limited leave in the UK, but who is subsequently refused by a Crown Dependency, or entered it without permission, or if their presence there was unlawful

If you encounter an individual whom you suspect of having entered the UK illegally but who claims to have recently arrived in the UK from Ireland or the Crown Dependencies, you must seek to establish the person's:

- date and means of entry to Ireland or the Crown Dependencies and immigration status in Ireland or the Crown Dependencies
- immigration history in the UK if appropriate
- date and means of embarkation from Ireland or the Crown Dependencies
- subsequent entry to the UK and details of any visas

Evidence of the above may include a passport or other travel document but full account should be taken of any other documentary evidence or statements that provide reasonable grounds on which to establish date and means of entry.

If you are satisfied that the individual has no current status (as listed in the categories above) and is in breach of the conditions of their deemed leave (that is are encountered working or have overstayed the permitted period of deemed leave), they are liable to be removed.

If you are satisfied that the individual has no current status and entered illegally due to falling into one of the exemption categories listed in the CTA guidance, they are liable to be removed. An individual with current deemed leave who is liable to removal for these reasons must be notified of the cancellation of that leave when being given notice that they are liable to removal. See Cancellation / curtailment guidance.

An individual with current deemed leave who is liable to removal for the reasons stated above must be notified of the cancellation of that leave when being given notice that they are liable to removal.

## Evidence of identity and nationality

Further guidance about determining whether an individual may be lawfully resident is contained within: Safeguarding and establishing lawful residence.

Indicators of residence may include digital and / or documentary evidence in the form of some or all of the following:

- evidence of EUSS leave; see: Control points and data checks - online status checker
- documents previously issued by the Home Office (such as a document issued for emergency travel purposes, or a frontier worker permit) 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
- official document issued by UK national and local authorities that may, when considered with other evidence, help corroborate residence history - 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 member state 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
- financial records including bank statements showing a record of in-country transactions, HMRC statements of National Insurance paid, P60s
- witness statements corroborating the claim to unbroken residence provided by a person with an established personal or official connect during the relevant periods
- a travel ticket to the UK confirming previous in-bound travel as evidence of residence for the month of entry
- documentary evidence of EUSS leave granted by a Crown Dependency

Where other means of ascertaining an applicant's identity and nationality have been exhausted, you may, with the individual's consent, consider referral 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.

See also: Derivative rights of residence.

## Initial evidence assessment: continuation of enforcement action

This section is about whether the grounds established during investigation make it reasonable and proportionate to consider administrative enforcement action other than voluntary return. Enforcement action in this context means a decision to move directly to service of notice that the individual is liable to be removed.

Any request by an individual to voluntarily leave the UK should be referred to the Voluntary Returns Service who will conduct the necessary checks. See: [voluntary departures eligibility](#).

You must attempt to investigate any individual you may encounter while conducting your enquiries to establish:

- their lawful status and whether they are a person subject to control under the Immigration Act 1971
- whether they have a lawful right to reside in the UK or other permitted basis of stay
- liability to any civil penalty, see: [consideration of civil penalty](#)

You must conduct such enquiries within the constraints described elsewhere in Immigration Enforcement General Instructions. Note that it is imperative that complete records searches are conducted, as per the Control points and data checks instructions, which should include biographic searches if no records are otherwise traced – this helps ensure that any evidence of current grants of UK leave are not missed, and helps avoid improper action being taken as a result.

The degree of available information on which to base a decision to continue investigation, and the nature of that investigation, is dependent on the nature of the information given and the degree of co-operation offered by the individual during exploratory questions or Schedule 2 examination.

Those who cannot or will not provide satisfactory evidence of their status, or otherwise will not assist you in establishing such evidence, present the greatest risk of inappropriate arrest and it is vital that you explore every practical means of gathering information to help justify your decision to proceed or not to proceed.

You must consider several possibilities including that:

- the individual may have a lawful status but is exercising their legitimate right not to disclose personal data – there is no coercive power to make someone co-operate with exploratory questioning and they may have legitimate reasons for not wanting to talk to you – the individual may be reassured by an explanation of your purpose and aims

- they may have a right to reside whose nature they do not understand or which they are unaware of; for instance, the fact that an individual may have applied for and been refused a status under the Immigration Rules does not invalidate any pre-existing right that may exist – the individual may not have been aware of their entitlement when making their application
- they may have no basis of stay and are seeking to evade further investigation by obstructing your enquiries – being uncooperative can never, on its own, provide reasonable grounds that an offence has been committed but may, in combination with other information and circumstances, contribute to your concluding that they are attempting to conceal unlawful acts or status
- you may have misunderstood or misinterpreted information that means further advice is needed – it is recognised that EU and UK nationality law is highly complex, and it is reasonable for you to act with caution and seek further advice and clarification where necessary

In the context of this guidance, if there are any reasonable grounds to suspect that there is a credible claim to status under the EUSS, officers should continue with service of a Notice of Liability of Removal (NOL) but should look to bail and signpost individuals to regularising their status, rather than detaining.

What can be considered reasonable grounds in the context of the circumstances described requires an objective assessment of:

- evidence of vulnerability material to whether the individual has the physical and / or mental capacity to understand and deal with the administrative requirements of the Immigration Rules
- the circumstances in which the individual was encountered – for instance, the nature of the premises, their activity and associations when encountered
- any supporting evidence available from Home Office databases and paper records – that may prompt someone who is reluctant to engage with you to confirm or dispute the information and / or reassure them that you have a legitimate need to clarify the accuracy of the data
- whether their statements, if any, accord with known procedures and rules at the times stated and, in the case of those claiming to be EEA citizens, are consistent with the EEA Regulations that existed at any relevant date in their account
- the strength and consistency of information within available documentary evidence – which may not be restricted to Home Office documents
- the degree to which any statements can be corroborated by other sources, such as family members, employers, landlords, the Crown Dependencies or others, see also: [consideration of civil penalty](#)

Any information should be considered very carefully and, if dismissed, must be re-evaluated considering any further evidence or changed circumstances. It must be re-emphasised that, even if the circumstances and actions of the individual when encountered might usually be considered to undermine their credibility, they may still have actual or potential residence or citizenship rights that they are unaware of.

Your assessment of whether further consideration of administrative enforcement action is appropriate must be based on a careful assessment of all available evidence and circumstances.

## Decision options and next action

The following options are a summary of possible decisions given the general circumstances described in each:

- no further action:
  - you are satisfied that the individual is an EEA citizen, their family member, or a person with rights under the agreements (such as a frontier worker or who has been issued with a Certificate of Application having made a valid EUSS application) who has / have taken steps to confirm their status
- signposting to make a late EUSS application via service of a NOL:
  - you are satisfied that the individual is an EEA citizen, or a family member of an EEA citizen, who has substantive evidence that they are eligible for EUSS status but has yet to apply
- enforcement action – Referral to Voluntary Returns Service (VRS):
  - the individual requests assistance to return to their home country – VRS to review eligibility, see within this guidance, [Voluntary departures by EEA citizens: eligibility](#)
- curtailment / cancellation see: EU Settlement Scheme cancellation and curtailment
- enforcement action – arrest and administrative removal consideration process:
  - the decision whether to arrest sits with the immigration officer, in accordance with the guidance contained in arrest and restraint and Initial consideration and assessment of liability to administrative removal – in the context of this guidance, the fact and circumstances of the arrest must be notified to and reviewed by a senior officer as soon as practically possible

## Vulnerability issues: suspected or identified

When serving a NOL, consideration must be given to any indication or information suggesting that the individual may have a limited ability to understand and act on the advice being given. This may, for instance, mean that those with cognitive impairment, or people with limited understanding, may need assistance in understanding the immigration regulations and in making an application. You may not legally provide advice on an application, but you may consider whether there are other people who could potentially be alerted to help the individual. These may include:

- legal representatives known to be associated with the individual
- social services
- relevant voluntary organisations and charitable bodies
- family members and / or carers that make themselves known to you during the encounter and / or responsible adults where you are satisfied they are appropriate and able to act in the best interests of the individual

You must record that you have identified the individual as being vulnerable and the reasons for this on Atlas; see [record of encounter](#).

See also:

- Identifying people at risk
- Rough sleeping

## Record of encounter

Encounters with any persons during visits and operations must be recorded in accordance with the guidance contained in Record keeping during enforcement visits on the Police Reporting and Notebook Organiser (PRONTO) app on the Digital Pocket Note Book (DPNB). The recording of minimum details on Pronto serves to:

- provide a defence against any future claims of unlawful examination
- provide accurate information about the reasons for questioning and the numbers of those investigated

**Service of a NOL should be recorded on PRONTO and relevant case-working systems.**

See also: Control points and data checks. Note that it is imperative that complete records searches are conducted, as per the 'Control points and data checks' instructions, which should include biographic searches if no records are otherwise traced. This helps to ensure that any evidence of current grants of UK leave is not missed.

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## Authorisation to initiate returns consideration or enforced removal

### Initial notification of liability to removal

A NOL can be served on authority of a senior caseworker (SCW), where appropriate, but any removal directions / removal window set to take proactive removal action must still generally be authorised by at least an HEO.

### Extant cases

Removal in extant cases may continue where the individual is the subject of an extant EEA deportation order. Otherwise, administrative removal may only be enforced where it is confirmed that there is no continuing eligibility for the EUSS or that EUSS status has been refused, cancelled, curtailed or revoked with no remaining appeal rights. Extant appeals against an IS.151B (EEA) served by 31 December 2020 should continue to be heard. Do not serve a NOL notice - the appeal is based on the regulations and guidance that were extant at the time of the decision.

Removal and detention in the case of an EEA citizen who has returned illegally, in breach of a deportation order or having been excluded, may be authorised by HEO grade.

### Entry in breach of deportation or exclusion order

A deportation or exclusion order made under the EEA regulations invalidates any leave granted and cancels residence rights of those persons who were lawfully resident in the UK before the end of the transition period. Residence rights may be retained and must be considered for those subject to a deportation order made under the Immigration Act 1971 or UK Borders Act 2007 powers. Following assessment, you may proceed with service of a NOL, noting your justification as entry in breach of a deportation or exclusion order. As there is less ambiguity about the person's identity and their rights in these cases, authority to proceed rests at HEO / CIO grade in line with existing processes.

### Voluntary departures

If the Voluntary Returns Service establishes that an applicant has no basis of stay, they will be served a form IS101 as amended, which the applicant must sign and then be served form IS151A (EEA). See: Voluntary and assisted departures.

### Curtailed of EUSS leave to remain

Where the individual is not a genuine EEA citizen or their family member, because:

- they obtained EUSS leave using a false document (such as an altered or counterfeit identity document)
- they are an imposter
- they obtained their EEA nationality by deception

and they have EUSS leave, you may curtail their leave, provided that the deception was material to the grant of leave and curtailment is proportionate.

See also:

- EU Settlement Scheme cancellation and curtailment guidance
- revocation of indefinite leave

To establish whether an individual holds EUSS leave you must:

- find out the date on which EUSS status was granted
- where the conduct flagged post-dates the grant of status or new intelligence has come to light since the grant of EUSS leave, then it should form part of the curtailment consideration – it is important to note that pre-grant conduct may be considered in line with post-grant conduct if an ongoing pattern of adverse behaviour can be demonstrated
- obtain from the Regional Command and Control (RCCU) the Unique Application Number (UAN) – this is a 16-digit reference and, where proceeding with cancellation, should be recorded on Pronto / Atlas See also: [record of encounter](#)

Cancellation and curtailment of EUSS status on the grounds of false or misleading information, representations or documents which were material to the decision to grant the person leave are usually undertaken by Status Review Unit. Further guidance is in the EU Settlement Scheme cancellation and curtailment guidance.

**Curtailment of EUSS leave must be referred to a grade 7 in the first instance.**

Any consideration of whether to curtail any form of immigration leave, including EUSS leave, granted by a Crown Dependency must be discussed with that Crown Dependency first before any action is taken to ensure a joint decision is taken.

Relevant Irish citizens can apply for EUSS leave even though they do not need to. Where you have cause to cancel an Irish citizen's EUSS leave, they may still be entitled to remain in the UK on the basis of their CTA rights as set out in 3ZA of the Immigration Act 1971 (as inserted by the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020). The individual can only be considered for administrative removal if they are also subject to a deportation order, exclusion decision or international travel ban.

## Right of appeal / review for non-EUSS and EUSS individuals

Non-EUSS individuals have no Right of Appeal (RoA) and no right to administrative review against a decision to cancel their permission to enter or stay in the UK.

However, a non-EUSS migrant may be able to seek a Judicial Review, or they could raise a fresh Human Rights claim following a cancellation decision.

An individual with EUSS leave has a right of appeal against a curtailment (in-country) or cancellation (border) decision made under [Appendix EU](#). Where leave is curtailed in-country, their pre-settled status is extended whilst they are in-time to bring that appeal, and extended further whilst their appeal is pending, unless their removal is certified.

From 4 April 2024, there is no provision in the Immigration Rules for an application for an administrative review of EUSS or S2 healthcare visitor decisions to be submitted, whether in-time or out-of-time.

## Voluntary departures by EEA citizens: eligibility

EEA citizens may request and be eligible for voluntary return. Voluntary departure arrangements will not apply to individuals who are self-funding their departure unless they need Home Office assistance such as obtaining travel documentation.

EEA citizens should be referred to the Voluntary Returns Service (VRS), **only** if:

- they have no actual right to stay; VRS can work with the person to establish possible extant leave, saved EEA rights of residence or other temporary rights under the agreements
- they make a fully informed request to return home voluntarily; that is, that they understand the possibility of making a late application to the EUSS but do not want to apply and understand the implications of not doing so – VRS will also explore this with the person

The individual must provide details of their means and date of entry to determine liability to enforcement action and eligibility for voluntary return. VRS will seek to establish whether the individual is liable / qualifies for administrative return and will also work with the individual to identify what assistance they need to return.

Check / confirm that:

- no EUSS application is still open
- there is no ongoing appeal or administrative review against a refusal of EUSS leave

The IS101 (as amended) must be signed and received by VRS and an IS151A (EEA) served before any public expense removal can be arranged. See: [Authorisation and service – voluntary departures](#).

See Voluntary and assisted departures.

### Related content

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