Home Office

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

Version 32.0

Contents

Contents 2
About this guidance 11
Application process 13
Cost of application 13
The best interests of a child 13
Contacts 14
Publication 14
Changes from last version of this guidance 14
Who can apply 16
EEA citizen 17
Relevant EEA citizen 17
Applications made before 1 July 2021 17
Applications made on or after 1 July 2021 19
Irish citizen 22
Non-EEA citizen 22
Family member of a relevant EEA citizen 22
Relevant EEA family permit case 23
Concession for certain children of a 'relevant EEA family permit case' 24
Joining family member of a relevant sponsor 25
Relevant naturalised British citizen 25
Family member of a dual British and EEA citizen (McCarthy cases) 27
Relevant person of Northern Ireland 28
Specified relevant person of Northern Ireland 28
Person exempt from immigration control 29
Frontier worker 29
Relevant document 30
Letter from the Secretary of State 31
Specified relevant document 32
Family member of a qualifying British citizen 32
Person with, or who had, a derivative or Zambrano right to reside 33
Making an application: validity 34
Required application process: applications made online 34
Required application process: applications made on paper application form 34
Required proof of identity and nationality 35
Required proof of entitlement to apply from outside the UK 36

Required biometrics 36
Required date 37
Joining family members 39
Reasonable grounds for delay in making an application 40
Repeat applications 42
Examples of reasonable grounds 43
Exempt from immigration control 44
Example 1 44
Example 2 45
Existing limited leave to enter or remain 45
Example 46
Indefinite leave to enter or remain held since before the end of the transition period 46
Children (including children in care and care leavers) 47
Example 1 48
Example 2 49
Physical or mental capacity and / or care or support needs 49
Example 1 50
Example 2 50
Serious medical condition or significant medical treatment 50
Example 51
Abusive or controlling relationship or situation 51
Example 52
Served or serving a sentence of imprisonment 53
Example 53
Visited the UK since 31 December 2020 53
Example 54
Limited leave to enter or remain (pre-settled status) granted in error 54
Example 55
Circumstances which will not generally constitute reasonable grounds for delay in making an application 55
Example 1 56
Example 2 57
Joining family members and specified enforcement case 57
Checking for evidence of illegal entry or irregular arrival 57
Breach of deportation order 59
Breach of the immigration laws 59

Use of deception (including deception by another person) 60
Validity consideration 61
Not using the required paper application form 61
Fraudulent identity document 61
Non-EEA passport for EEA citizen 62
No biometric residence card as claimed 62
Biometric residence card lost, stolen or expired by more than 60 months 63
Reasonable grounds for the delay in applying 63
Invalid sponsor for a joining family member application 65
Void applications 66
Certificate of application 66
Multiple applications 67
Automated conversion from pre-settled to settled status 68
Further applications 68
Alternative evidence of identity and nationality or of entitlement to apply from outside the UK 70
Circumstances where alternative evidence may be accepted 71
Document unobtainable from national authority 71
Document exists but cannot be produced 71
Refugee status or humanitarian protection 72
Other reasons document cannot be obtained or produced 72
Other supporting information or evidence 74
Irish citizens 75
Withdrawing an application 76
Requesting to withdraw an application 76
Requesting to withdraw online 76
Requesting to withdraw by post 76
Withdrawn applications 76
Date of application: original application 77
Confirmation of withdrawal 77
Travel outside the Common Travel Area 77
Variation of applications 79
Making an application: eligibility 80
EEA citizens 80
Documented right of permanent residence 80
Indefinite leave to enter or remain held since before the end of the transition period 82

Continuous qualifying period of 5 years 82
Ceased activity 83
Child under the age of 21 84
Continuous qualifying period of less than 5 years 86
Eligibility: family members of a relevant EEA citizen 88
Who can apply as a family member of a relevant EEA citizen? 88
Documented right of permanent residence 89
Indefinite leave to enter or remain held since before the end of the transition period 90
Continuous qualifying period of 5 years 91
Child under the age of 21 92
The relevant EEA citizen has ceased activity 94
The relevant EEA citizen has died 98
A family member who has retained the right of residence 99
Continuous qualifying period of less than 5 years 102
Relevant EEA citizen's EUSS status 102
Relevant EEA citizen's EUSS status was granted in error 102
Eligibility: joining family members of a relevant sponsor 106
Who can apply as a joining family member of a relevant sponsor? 106
Relevant sponsor 108
Not in the UK as a visitor 111
Continuous qualifying period of 5 years 112
Child under the age of 21 113
The relevant sponsor has ceased activity 116
The relevant sponsor has died 119
A family member who has retained the right of residence 120
Continuous qualifying period of less than 5 years 123
Relevant sponsor's EUSS status 124
Relevant sponsor's EUSS status was granted in error 124
Assessing family relationship 126
Spouse 126
Civil partner 127
Specified spouse or civil partner of a Swiss citizen 128
Durable partner 128
Resident in the UK by 11pm on 31 December 2020 129
Joining on or after 1 January 2021 130
Example 131

Civil partnership, durable partnership or marriage of convenience 132
Child under the age of 21 132
Child aged 21 or over 135
Family relationship 135
Dependency 136
Example 1 137
Example 2 137
Example 3 137
Dependent parent 138
Dependency 138
Example 1 140
Family relationship 140
Dependent relative 141
Family members who hold pre-settled status based on dependency 143
Other evidence 143
Family members of the people of Northern Ireland 150
Specified relevant person of Northern Ireland 153
Family members of persons exempt from immigration control 154
Family members of frontier workers 155
Applications in respect of children 157
Referral to Children's Services or other agencies 157
Requesting further information or evidence 158
Enquiries with the parent, guardian or other third parties 159
Making a referral 160
Deciding the application 160
Children adopted from outside the UK 160
Applicants aged over 18 and under 21 162
Applications in respect of adults with mental capacity issues and / or care or support needs 163
Applications made on behalf of an adult with mental capacity issues and / or care or support needs 163
Power of Attorney 164
Court appointed authorisations 165
England and Wales: Deputy appointed by the Court of Protection 165
Scotland: Guardian or Intervener appointed by the Sheriff Court 165
Northern Ireland: Controllers appointed by the Office of Care and Protection 166
Legal guardianship 166

Applications made by another appropriate third party 166
Suitability 168
Qualifying residence 174
Continuous qualifying period 174
COVID-19 179
Crown servants and HM Forces personnel 182
Crown Dependencies 182
Overseas Territories 183
Converting from pre-settled status to settled status – maintaining continuous residence 183
Checks to establish UK residence 183
Home Office travel data 184
Reviewing travel data following RPS checks 185
Differences between RPS and travel data 186
No travel data 186
EU3 applicants with LTE or LTR 187
EU3A applicants with LTE or LTR 187
Examples 188
Scenario 1 – first time application 188
Scenario 2 – application to convert pre-settled status to settled status 189
Scenario 3 – no RPS or travel data 189
Scenario 4 – additional evidence required due to no RPS or travel data 190
Scenario 5 – additional evidence required to establish missed travel events in travel data 190
Automated conversion from pre-settled to settled status 191
Consideration of applications: ILE or ILR 192
Supervening event 193
Permanent residence (PR) document holders 194
Requirements 194
Relevant evidence 195
Decision 195
Scenario 1 196
Scenario 2 196
Holders of indefinite leave to enter (ILE) or indefinite leave to remain (ILR) held since before the end of the transition period 197
Requirements 197
Relevant evidence 197
Applicants unable to provide evidence of ILE or ILR 198

Decision 199
Scenario 1 199
Scenario 2 200
Applicant has completed a continuous qualifying period of 5 years 201
Requirements 201
Relevant evidence 202
Decision 202
Scenario 1 203
Scenario 2 203
A relevant EEA citizen who has ceased activity 204
Requirements 204
Retired 204
Relevant evidence 204
Permanent incapacity 205
Relevant evidence 205
Worker or self-employed person who has retained a place of residence 206
Relevant evidence 206
Decision 207
Scenario 1 207
Scenario 2 207
Scenario 3 207
Family member of a relevant EEA citizen who is a person who has ceased activity 209
Requirements 209
Relevant evidence 211
Decision 212
Scenario 1 212
Scenario 2 213
Family member of a relevant EEA citizen who has died 214
Requirements 214
Relevant evidence 214
Decision 215
Scenario 1 215
Scenario 2 215
Child under the age of 21 of a relevant EEA citizen or of their spouse or civil partner 216
Relevant evidence 218

Decision 220
Scenario 1 220
Scenario 2 220
Family member who has retained the right of residence 222
Evidence about the relevant EEA citizen (or qualifying British citizen or relevant sponsor) 222
The relevant EEA citizen (or qualifying British citizen or relevant sponsor) has died 224
Requirements 224
Relevant evidence 224
A child of a relevant EEA citizen (or qualifying British citizen or relevant sponsor) who has died or ceased to reside in the UK (or of their spouse or civil partner) . 224
Requirements 224
Relevant evidence 225
A parent with custody of a child of a relevant EEA citizen or qualifying British citizen (or of their spouse or civil partner) 225
Requirements 225
Relevant evidence 226
The marriage or civil partnership with a relevant EEA citizen (or qualifying British citizen or relevant sponsor) has been terminated 226
Requirements 226
Relevant evidence 227
A relevant family relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor) has broken down permanently as a result of domestic violence or abuse 228
Requirements 228
Relevant evidence 229
Joining family member of a relevant sponsor who has completed a continuous qualifying period of 5 years 232
Requirements 232
Relevant evidence 232
Decision 233
Joining family member of a relevant sponsor who is a person who has ceased activity 234
Requirements 234
Relevant evidence 236
Decision 237
Joining family member of a relevant sponsor who has died 238
Requirements 238

Relevant evidence 238
Decision 239
Joining family member who is a child under the age of 21 years of a relevant sponsor or of their spouse or civil partner 240
Requirements 240
Relevant evidence 243
Decision 244
Consideration of applications: 5 years' limited leave to enter (LTE) or limited leave to remain (LTR) 245
Relevant EEA citizens and family members 245
Relevant evidence 245
Joining family members of relevant sponsors 245
Relevant evidence 246
Decision 246
Consideration of applications: eligibility 248
Standard process 248
Truncated process 248
All cases 249
Consideration under Annex 2 of Appendix EU 250
Requesting further information or evidence and interviewing 250
Failure to provide information or evidence or attend an interview 250
Refusals 252
Evidence of residence 253
Evidence required to establish residence in the UK 253
Preferred evidence of residence 253
Alternative evidence of residence 254
Cancellation, curtailment and revocation of leave to enter or remain 256
Cancellation 256
Curtailment 257
Revocation 258
Right of appeal 259

About this guidance

This guidance tells you how, from 30 July 2026, to consider applications made under the EU Settlement Scheme (EUSS), contained in Appendix EU to the Immigration Rules.

You must consider applications in line with the Immigration Rules and guidance in force at the date of decision on the application.

The EU Settlement Scheme provides a basis, consistent with the Withdrawal Agreement with the European Union reached on 17 October 2019 and with the citizens' rights agreements reached with the other European Economic Area (EEA) countries and Switzerland, for EEA and Swiss citizens resident in the UK by the end of the transition period at 11pm on 31 December 2020, and their family members, to apply for the UK immigration status which they require in order to remain here after 30 June 2021. Those agreements now have effect in UK law through the European Union (Withdrawal) Act 2018, as amended by the European Union (Withdrawal Agreement) Act 2020.

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

Where eligibility for the EU Settlement Scheme is concerned, paragraph 1.15 of the Statement of Intent on the EU Settlement Scheme published on 21 June 2018 states:

> The Home Office will work with applicants to help them avoid any errors or omissions that may impact on the application decision. Caseworkers will have scope to engage with applicants and give them a reasonable opportunity to submit supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. A principle of evidential flexibility will apply, enabling caseworkers to exercise discretion in favour of the applicant where appropriate, to minimise administrative burdens. User-friendly guidance will be available online to guide applicants through each stage of the application process.

This guidance for caseworkers has been developed to support that approach. The EU Settlement Scheme will be referred to as 'the scheme' for the purposes of this guidance.

Where this guidance refers to the 'specified date', this means 11pm Greenwich Mean Time (GMT) on 31 December 2020 (except where the applicant is a family member of a qualifying British citizen, or a relevant EEA family permit case, as a different date applies in respect of those groups).

The EU Settlement Scheme also provides a basis for certain family members of qualifying British citizens who have returned with them to the UK after living together in an EEA country or Switzerland to apply for the UK immigration status which the family member requires to remain here. For guidance on applications from the family member of a qualifying British citizen, including on the meaning in that context of 'specified date' and 'required date', see EU Settlement Scheme: Family member of qualifying British citizen.

In the case of a relevant EEA family permit case, 'specified date' means, for the purposes specified in that definition, 11:59pm GMT on the date they arrived in the UK.

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

- (where relevant to something done before 11pm GMT on 31 December 2020) the Immigration (European Economic Area) Regulations 2016 (as they had effect immediately before that date and time)
- (where relevant to something done after 11pm GMT on 31 December 2020 and before 1 July 2021) the Immigration (European Economic Area) Regulations 2016 (as, despite the revocation of those Regulations, they continued to have effect, with specified modifications, by virtue of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020)
- (where relevant to something done on or after 1 July 2021) the Immigration (European Economic Area) Regulations 2016 (as they had effect immediately before they were revoked and, where the context requires it, on the basis that those Regulations had not been revoked)

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

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

Where this guidance refers to 'the Islands', this means (as defined in Annex 1 to Appendix EU):

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

Where this guidance refers to 'the UK and Islands', this means (as defined in Annex 1 to Appendix EU):

- the UK and the Islands taken together

Application process

Applicants must apply by using the required application process.

Other than for proof of their identity and nationality or entitlement to apply from outside the UK, applicants may submit a photocopy, photograph or scanned digital image of any required evidence. You can require that they submit the original document or documents where you have reasonable doubt as to the authenticity of the copy submitted.

Guidance for EUSS applicants in or outside the UK affected by restrictions associated with the coronavirus (COVID-19) pandemic is available at: Coronavirus (COVID-19): EU Settlement Scheme – guidance for applicants.

Also consult operational instructions on any measures in place as a result of COVID-19, in conjunction with this guidance.

Cost of application

There is no fee for an application under the EU Settlement Scheme.

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

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

The best interests of a child

The duty in section 55 of the Borders, Citizenship and Immigration Act 2009 to have regard to the need to safeguard and promote the welfare of a child under the age of 18 in the UK, together with Article 3 of the UN Convention on the Rights of the Child, means that consideration of the child's best interests must be a primary consideration in immigration decisions affecting them. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that we give practical effect to these obligations.

Where a child or children in the UK will be affected by the decision, you must have regard to their best interests in making the decision. You must carefully consider all the information and evidence provided concerning the best interests of a child in the UK and the impact the decision may have on the child.

Although the duty in section 55 only applies to children in the UK, the statutory guidance – Every Child Matters – Change for Children – provides guidance on the extent to which the spirit of the duty should be applied to children overseas. You must adhere to the spirit of the duty and make enquiries when you have reason to

suspect that a child may be in need of protection or safeguarding, or presents welfare needs that require attention. In some instances, international or local agreements are in place that permit or require children to be referred to the authorities of other countries and you are to abide by these and work with local agencies to develop arrangements that protect children and reduce the risk of trafficking and exploitation.

Further guidance can be found in paragraphs 2.34 to 2.36 of the Every Child matters: statutory guidance.

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

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email the EEA Citizens' Rights & Hong Kong Unit.

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

Publication

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

- version **32.0**
- published for Home Office staff on **30 July 2026**

Changes from last version of this guidance

The guidance has been updated to reflect Statement of Changes in Immigration Rules HC 259, laid on 9 July 2026.

The guidance has also been updated to clarify where a relevant EEA citizen or relevant sponsor's EUSS status will be considered to have been granted in error.

Related content
Contents

Related external links
Immigration Rules: Immigration Rules Appendix EU
Immigration (European Economic Area) Regulations 2016
Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020
Coronavirus (COVID - 19): EU Settlement Scheme - guidance for applicants
Statement of Changes in Immigration Rules - HC 259
Section 55 of the Borders, Citizenship and Immigration Act 2009

Every Child Matters – statutory guidance

Who can apply

The EU Settlement Scheme (EUSS) was launched at 7:00am on 30 March 2019, after several test phases.

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

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

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

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

Applications under the EU Settlement Scheme by a dependent relative of a relevant European Economic Area (EEA) citizen, and joining family members of a relevant sponsor, where the relevant EEA citizen or relevant sponsor is a specified relevant person of Northern Ireland, have been possible since 1 July 2021.

Where eligible, a person who is exempt from immigration control (for example, foreign diplomats, consular staff, posted members of foreign armed forces, members of staff of certain international organisations and certain family members of theirs) can apply for and be granted pre-settled or settled status under the EU Settlement Scheme whilst they remain a person exempt from immigration control. You must not treat an application to the EU Settlement Scheme from a person exempt from immigration control as void because the person is exempt. If a person applies whilst they are exempt from immigration control, you must treat them as if they were not exempt. This means you must consider the application in the same way as for other relevant EEA citizens or their family members. A person exempt from immigration control can also apply to the scheme, by the ‘required date’, once they cease to be exempt from immigration control, and in the meantime their non-exempt family members are able to apply.

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

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

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

A person whose indefinite leave to enter or indefinite leave to remain granted under Appendix EU has lapsed under article 13 of the Immigration (Leave to Enter and Remain) Order 2000 owing to their absence from the UK and Islands – for example, of more than 5 consecutive years where relevant circumstances covered by the 2000 Order do not apply – is not eligible for further leave under the EU Settlement Scheme. They can apply under Appendix Returning Resident to the Immigration Rules if they want to return to and settle in the UK. Further information can be found at Returning residents.

EEA citizen

An 'EEA citizen' is defined in Annex 1 to Appendix EU as a person who is (and, throughout any continuous qualifying period relied upon, was) either:

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

Relevant EEA citizen

Annex 1 to Appendix EU contains 2 definitions of 'relevant EEA citizen', depending on the date of the application under consideration.

Applications made before 1 July 2021

Where, in respect of the application under consideration, the date of application by a relevant EEA citizen or their family member is before 1 July 2021, a 'relevant EEA citizen' is defined in Annex 1 to Appendix EU as either:

- under sub-paragraph (a), an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) resident in the UK and Islands for a continuous qualifying period which began before the specified date

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

enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

- under sub paragraph (f), where the applicant is the family member of a person exempt from immigration control, that person is either:
  - resident in the UK and Islands for a continuous qualifying period which began before the specified date
  - a person who, having been resident in the UK and Islands as described above and if they had made a valid application under Appendix EU before 1 July 2021, would have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
- under sub-paragraph (g), where the applicant is their family member, a frontier worker

Refer to the below information for:

- sub-paragraph (c) -Relevant naturalised British citizen
- sub-paragraph (d) - Family member of a dual British and EEA citizen (McCarthy cases)
- sub-paragraph (e) - Family members of the people of Northern Ireland
- sub-paragraph (f) - Person exempt from immigration control
- sub-paragraph (g) - Frontier worker

Applications made on or after 1 July 2021

Where, in respect of the application under consideration, the date of application by a relevant EEA citizen or their family member is on or after 1 July 2021, a 'relevant EEA citizen' is defined in Annex 1 to Appendix EU as either:

- under sub-paragraph (a), an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) resident in the UK and Islands for a continuous qualifying period which began before the specified date; and, where the applicant is their family member, the EEA citizen, having been resident in the UK and Islands as described above, has been granted either:
  - indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated
  - limited leave to enter or remain under paragraph EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed or invalidated
- under sub-paragraph (b), an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) resident in the UK and Islands for a continuous qualifying period which began before the specified date; and, where the applicant is their family member, the EEA citizen, having been resident in the UK and Islands as described above, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted:

    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- under sub-paragraph (c), where the applicant is a family member of a person who falls within sub-paragraphs (a), (c) and (d) of the entry for 'relevant naturalised British citizen' in Annex 1 to Appendix EU, that relevant naturalised British citizen would, if they had made a valid application under Appendix EU before 1 July 2021, have, but for the fact that they are a British citizen, been granted:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- under sub-paragraph (d), where the applicant is the family member ("F") to whom paragraph 9 of Schedule 6 to the EEA Regulations refers and meets the criteria as F in that paragraph, an EEA citizen (in accordance with sub-paragraph (c) of that definition in Annex 1 to Appendix EU) resident in the UK and Islands for a continuous qualifying period which began before the specified date; and the EEA citizen, having been resident in the UK and Islands as described above and if they had made a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- under sub-paragraph (e)(i), where the applicant is a family member of a relevant person of Northern Ireland, an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU) who is a relevant person of Northern Ireland in accordance with sub-paragraph (a)(ii) of the definition in Annex 1 to Appendix EU (such as an Irish citizen); and the EEA citizen, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
    - has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated
    - would have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (if had they made a valid application under Appendix EU before 1 July 2021), which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - has been granted limited leave to enter or remain under paragraph EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed or invalidated

    - would have been granted limited leave to enter or remain under paragraph EU3 of Appendix EU (if had they made a valid application under Appendix EU before 1 July 2021), which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- under sub-paragraph (e)(ii), where the applicant is a family member of a relevant person of Northern Ireland, an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU) who is a relevant person of Northern Ireland in accordance with sub-paragraph (a)(i) or (a)(iii) of the definition in Annex 1 to Appendix EU (such as a British citizen or a British citizen and an Irish citizen); and the EEA citizen, having been resident in the UK and Islands for a continuous qualifying period which, unless they are a specified relevant person of Northern Ireland, began before the specified date, and if they had made a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- under sub paragraph (f), where the applicant is the family member of a person exempt from immigration control, that person was resident in the UK and Islands for a continuous qualifying period which began before the specified date; and the person, having been resident in the UK and Islands as described above and if they had made a valid application under Appendix EU before 1 July 2021, would have been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- under sub-paragraph (g) where the applicant is their family member, a frontier worker

In addition, in relation to sub-paragraphs (a) to (f), as described above, of the definition of ‘relevant EEA citizen’ where, in respect of the application under consideration, the date of application is on or after 1 July 2021, it will suffice that the relevant EEA citizen is (or, as the case may be, for the relevant period was) resident in the UK and Islands for a continuous qualifying period which, unless they are a specified relevant person of Northern Ireland, began before the specified date where the applicant either:

- is (or for the relevant period was) a family member of a relevant EEA citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen; and has completed a continuous qualifying period of 5 years under condition 3 in rule EU11 of Appendix EU
- is a family member of a relevant EEA citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EEA

citizen; and otherwise meets the eligibility requirements for limited leave to enter or remain under condition 1 in rule EU14 of Appendix EU
- relies on meeting condition 1, 2 or 6 in rule EU11 of Appendix EU

Refer to the below information for:

- sub-paragraph (c) - Relevant naturalised British citizen
- sub-paragraph (d) - Family member of a dual British and EEA citizen (McCarthy cases)
- sub-paragraph (e) - Family members of the people of Northern Ireland
- sub-paragraph (f) - Person exempt from immigration control
- sub-paragraph (g) - Frontier worker

Irish citizen

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

Irish citizens enjoy a right of residence in the UK that is not reliant on the UK's membership of the EU.

This means that Irish citizens do not need to apply for status under the scheme. Nonetheless, Irish citizens can make an application under the scheme, should they wish to do so.

Their family members (who are not Irish citizens or British citizens and who do not have leave to enter or remain in the UK) will need to make an application for status under the EU Settlement Scheme, and they can do so whether or not the Irish citizen has done so.

Non-EEA citizen

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

Family member of a relevant EEA citizen

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

- spouse
- civil partner
- durable partner (unmarried partnership akin to marriage or civil partnership)
- child, grandchild or great-grandchild (including of the spouse or civil partner)
- dependent parent, grandparent or great-grandparent (including of the spouse or civil partner)
- dependent relative (including, in some cases, of the spouse or civil partner)

A person can also apply:

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

To apply under the family member of a relevant EEA citizen provisions (save as a dependent relative of a specified relevant person of Northern Ireland or as a relevant EEA family permit case), an applicant must have been resident in the UK by the end of the transition period at 11pm GMT on 31 December 2020 on a basis which met the definition of 'family member of a relevant EEA citizen' in Annex 1 to Appendix EU and thereafter not have broken the continuity of their residence.

Relevant EEA family permit case

The requirement that a person applying as a family member of a relevant EEA citizen must have been resident in the UK by the end of the transition period at 11pm GMT on 31 December 2020 on a basis which met the definition of 'family member of a relevant EEA citizen' in Annex 1 to Appendix EU, does not apply where the applicant is a 'relevant EEA family permit case' as defined in Annex 1 to Appendix EU.

Under that definition, a 'relevant EEA family permit case' is either:

- under sub-paragraph (a)(i), a family member of a relevant EEA citizen who is a dependent relative or a durable partner who (in either case) arrived in the UK after 11pm GMT on 31 December 2020 and by 30 June 2021 with a valid EEA family permit issued under the EEA Regulations on the basis of a valid application made under the EEA Regulations before 11pm GMT on 31 December 2020
- under sub-paragraph (a)(ii), a family member of a relevant EEA citizen who is a dependent relative or (on the basis of a valid application made under the EEA Regulations before 11pm GMT on 31 December 2020) a durable partner who (in either case) arrived in the UK after 11pm GMT on 31 December 2020 with an entry clearance in the form of an EU Settlement Scheme family permit granted under Appendix EU (Family Permit) on the basis they met the definition in Annex 1 to that Appendix of 'specified EEA family permit case'
- under sub-paragraph (b), a person with a derivative right to reside or a person with a Zambrano right to reside who (in either case) arrived in the UK after 11pm GMT on 31 December 2020 and by 30 June 2021 with a valid EEA family permit issued under the EEA Regulations on the basis of a valid application made under the EEA Regulations before 11pm GMT on 31 December 2020
- under sub-paragraph (c), a person with a derivative right to reside or a person with a Zambrano right to reside who (in either case) arrived in the UK after 11pm GMT on 31 December 2020 with an entry clearance in the form of an EU Settlement Scheme family permit granted under Appendix EU (Family Permit)

on the basis they met the definition in Annex 1 to that Appendix of ‘specified EEA family permit case’

See the EU Settlement Scheme Family Permit and Travel Permit guidance for further information.

In a ‘relevant EEA family permit case’, you may consider there are reasonable grounds for the person’s delay in making their application (where they do so after the 30 June 2021 deadline applicable to them) where they apply to the EU Settlement Scheme as soon as they reasonably can (and generally within 3 months) following their arrival in the UK.

Concession for certain children of a ‘relevant EEA family permit case’

An application may be made, as a family member (dependent relative) of a relevant EEA citizen, for a child of a ‘relevant EEA family permit case’ where the child was granted an EU Settlement Scheme family permit outside Appendix EU (Family Permit) to accompany their parent or parents to the UK, or join them here, and either:

- the child was born outside the UK before 11pm GMT on 31 December 2020 to a parent / parents who is a dependent relative who meets sub-paragraph (a) of the definition of a ‘relevant EEA family permit case’, but a valid EEA family permit application was not made for the child under the EEA Regulations before 11pm GMT on 31 December 2020
- the child was born outside the UK after 11pm GMT on 31 December 2020 to a parent / parents who is a dependent relative who meets sub-paragraph (a) of the definition of a ‘relevant EEA family permit case’, so a valid EEA family permit application could not be made for the child under the EEA Regulations before 11pm GMT on 31 December 2020

In either case:

- they will be deemed to meet sub-paragraph (a)(i) of the definition of ‘dependent relative’ where the sponsoring person is concerned
- the EU Settlement Scheme family permit granted to them outside Appendix EU (Family Permit) will be deemed to meet the requirement for such a document under sub-paragraph (b) of the definition of ‘dependent relative’
- the specified date, in sub-paragraph (a) of the definition of ‘continuous qualifying period’ (for the purposes of the references to such a period specified in sub-paragraph (c)(i) of the definition of ‘specified date’) and sub-paragraph (e) of the definition of ‘family member of a relevant EEA citizen’, will be treated as being 11:59pm GMT on the date they arrived in the UK
- the application should be made as soon as reasonably practicable (and generally within 3 months) following their arrival in the UK

Joining family member of a relevant sponsor

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

- spouse
- civil partner
- specified spouse or civil partner of a Swiss citizen
- durable partner (unmarried partnership akin to marriage or civil partnership)
- child, grandchild or great-grandchild (including of the spouse or civil partner)
- dependent parent, grandparent or great-grandparent (including of the spouse or civil partner)

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

Where a person granted pre-settled status under the EU Settlement Scheme as a joining family member of a relevant sponsor later applies for settled status and at that stage it is established by the evidence provided or otherwise available to you that they meet the requirements for settled status as a relevant EEA citizen or family member of a relevant EEA citizen (including that they were resident in the UK by the end of the transition period and maintained the required continuity of residence thereafter), they may be granted settled status on that basis instead.

Relevant naturalised British citizen

A family member of a relevant EEA citizen (or a joining family member of a relevant sponsor) can also apply where the relevant EEA citizen (or relevant sponsor) is a dual British and EEA citizen who exercised free movement rights in the UK before the acquisition of British citizenship and who retained their EEA nationality of origin after acquiring British citizenship. This reflects the Court of Justice of the European Union (CJEU) judgment in Lounes.

Such a 'relevant naturalised British citizen' is defined in Annex 1 to Appendix EU as either:

- under sub-paragraph (a), an EEA citizen (in accordance with sub-paragraph (a)(i) of the definition of 'EEA citizen' in Annex 1 to Appendix EU) resident in the UK and Islands for a continuous qualifying period which began before the specified date
- under sub-paragraph (b), an EEA citizen (in accordance with sub-paragraph (a)(i) of the definition of 'EEA citizen' in Annex 1 to Appendix EU) who, having been resident in the UK and Islands as described above and if they had made

a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

In addition, in either case the person also both:

- under sub-paragraph (c), comes within paragraph (b) of the definition of "EEA national" in regulation 2(1) of the EEA Regulations
- under sub-paragraph (d), meets the criteria contained in regulation 9A(2) or 9A(3) as the dual national ("DN") to whom those provisions refer (save for the requirement in regulation 4(1)(c)(ii) and (d)(ii) of the EEA Regulations for comprehensive sickness insurance cover in the UK and regardless of whether, save in conditions 5 and 6 in the table in paragraph EU11 of Appendix EU and in conditions 2 and 3 in the table in paragraph EU11A, they otherwise remained a qualified person under regulation 6 of the EEA Regulations after they acquired British citizenship)

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

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

You must be satisfied that that person:

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

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

- was a 'qualified person' under regulation 6(1) of the EEA Regulations at the time they acquired British citizenship and, where the applicant relies on meeting condition 5 or 6 in rule EU11 of Appendix EU or condition 2 or 3 in rule EU11A, has not lost the status of qualified person since they acquired British citizenship (see EEA Nationals: Qualified Persons)
- had acquired a right of permanent residence in the UK at the time they acquired British citizenship (see 'Right to permanent residence for qualified persons section' in EEA Nationals: Qualified Persons)

If the applicant does not provide sufficient evidence that the person is a naturalised British citizen, you must check other information available, for example, information

or a scanned copy of the person's British passport held on Home Office records, before you contact the applicant to request, they provide further evidence.

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

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

Shirley McCarthy V Secretary of State for the Home Department [2011] ECJ / C-434/09 in 2011 found that a person who holds the nationality of the host EEA Member State (regardless of whether or not they hold dual nationality with another EEA Member State) and has never exercised their right of free movement does not benefit, and nor do their family members, from rights of residence under the Free Movement Directive. Transitional provisions were made in 2012 – which are now reflected in paragraph 9 of Schedule 6 to the EEA Regulations – to enable certain family members affected by the judgment to retain or obtain a residence document enabling them to remain in the UK.

They will be either:

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

By virtue of sub-paragraph (d) of the applicable definition of 'relevant EEA citizen' in Annex 1 to Appendix EU (and of sub-paragraph (c)(ii) of the definition there of 'EEA citizen'), such a person may be eligible for settled status or pre-settled status under

Appendix EU as the family member of a relevant EEA citizen, where the other relevant requirements of that category are met.

Relevant person of Northern Ireland

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

A 'relevant person of Northern Ireland' is a person who both:

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

Specified relevant person of Northern Ireland

From 1 July 2021, there is provision under Appendix EU for a dependent relative of a relevant EEA citizen, or for a joining family member of a relevant sponsor, to apply under the scheme where the relevant EEA citizen (or relevant sponsor) is a 'specified relevant person of Northern Ireland' (as defined in Annex 1 to Appendix EU). This is a person who is a relevant person of Northern Ireland in accordance with sub-paragraph (a)(i) or (a)(iii) of that definition in Annex 1 (such as they are a British citizen or a dual British and Irish citizen) and both:

- the applicant is a non-EEA citizen
- the applicant is either:
  - a joining family member of a relevant sponsor, where the person is their relevant sponsor and the applicant has satisfied you by relevant information or evidence provided with the application that, due to compelling practical or compassionate reasons, it was not possible for the person to return to the UK before the specified date while the applicant remained outside the UK
  - a dependent relative and the person is their sponsoring person (in the definition of 'dependent relative' in Annex 1 to Appendix EU) and the applicant relies, as their relevant document as the dependent relative of their sponsoring person (as described in sub-paragraph (a)(iv) of the definition of 'relevant document' in Annex 1 to Appendix EU), on an EU Settlement Scheme Family Permit granted to them under Appendix EU (Family Permit) as a 'dependent relative of a specified relevant person of Northern Ireland', as defined in Annex 1 to that Appendix

Person exempt from immigration control

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

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

Where eligible, a person who is exempt from immigration control (for example, foreign diplomats, consular staff, posted members of foreign armed forces, members of staff of certain international organisations and certain family members of theirs) can apply for and be granted pre-settled or settled status under the EU Settlement Scheme whilst they remain a person exempt from immigration control.

Their exemption from immigration control will continue to operate for the purposes of entry to and residence in the UK. However, a grant of pre-settled or settled status under the EUSS will enable them to access their rights under the Citizens’ Rights Agreements from the date status is granted.

You must not treat an application to the EU Settlement Scheme from a person exempt from immigration control as void because the person is exempt. If a person applies whilst they are exempt from immigration control, you must treat them as if they were not exempt. This means you must consider the application in the same way as for other relevant EEA citizens or their family members.

A person exempt from immigration control can apply to the EU Settlement Scheme whilst they are exempt, or they can wait and apply within 90 days of the date on which they cease to be exempt (or later if they have reasonable grounds for missing that deadline).

The relevant family members of a person exempt from immigration control are able to apply, regardless of whether the person exempt from immigration control has obtained EU Settlement Scheme status and regardless of whether that family member is also exempt. They can apply under the family member of a relevant EEA citizen provisions (if they were resident by 11pm GMT on 31 December 2020 on a basis which met the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU and thereafter have not broken the continuity of their residence) or where eligible as a joining family member.

See Persons exempt from control for further guidance.

Frontier worker

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

A frontier worker is a person who:

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

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

Relevant document

Where this guidance refers to a 'relevant document' it means (as defined in Annex 1 to Appendix EU) either:

- under sub-paragraph (a)(i)(aa), a family permit, registration certificate, residence card, document certifying permanent residence, permanent residence card or derivative residence card issued by the UK under the EEA Regulations on the basis of an application made under the EEA Regulations before the specified date or, in the case of a family permit (where the applicant is not a dependent relative), before 1 July 2021 (or, in any case, a letter from the Secretary of State, issued after 30 June 2021, confirming their qualification for such a document, had the route not closed after 30 June 2021)
- under sub-paragraph (a)(i)(bb) (where the applicant is a family member of a relevant person of Northern Ireland and is a dependent relative or durable partner), other evidence which satisfies the Secretary of State of the same matters under Appendix EU concerning the relationship and (where relevant) dependency as a document listed in sub-paragraph (a)(i)(aa); for the purposes of this provision, where the Secretary of State is so satisfied, such evidence is deemed to be the equivalent of a document to which sub-paragraph (a)(i)(aa) refers
- under sub-paragraph (a)(ii), a document or other evidence equivalent to a document to which sub-paragraph (a)(i)(aa) refers, and issued by the Islands under the relevant legislation there evidencing the entitlement to enter or reside in the Islands or the right of permanent residence in the Islands, through the application there of section 7(1) of the Immigration Act 1988 (as it had effect before it was repealed) or under the Immigration (European Economic Area) Regulations of the Isle of Man
- under sub-paragraph (a)(iii), a biometric residence card issued by virtue of having been granted limited leave to enter or remain under Appendix EU
- under sub-paragraph (a)(iv), an entry clearance in the form of an EU Settlement Scheme Family Permit granted under or outside Appendix EU (Family Permit)

And, in addition, the document:

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

Under transitional provisions in the EEA Regulations, a document issued under the 2000 or 2006 Regulations is to be treated as though issued under the EEA Regulations 2016.

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

Letter from the Secretary of State

The requirement that a person applying as a family member of a relevant EEA citizen hold a relevant document can be met by way of a letter from the Secretary of State, issued after 30 June 2021, confirming their qualification for a document under the EEA Regulations, had the route not closed after 30 June 2021. For example,

where an extended family member (a durable partner or dependent relative, as defined in Annex 1 to Appendix EU) in the UK, who applied before the end of the transition period at 11pm on 31 December 2020 for a residence card under the EEA Regulations, would have been issued with one (including on appeal) but for the closure of that route after 30 June 2021.

The applicant must continue to meet all other relevant requirements under Appendix EU to qualify for status under the EU Settlement Scheme.

In the case of an applicant relying on such a letter, you may consider there are reasonable grounds for the person's delay in making their application (where they do so after the 30 June 2021 deadline applicable to them) where they apply to the EU Settlement Scheme as soon as they reasonably can (and generally within 3 months) of receiving the letter.

Specified relevant document

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

- within the meaning of sub-paragraph (a)(i)(aa) of the definition of 'relevant document', a residence card, permanent residence card or derivative residence card issued by the UK under the EEA Regulations on the basis of an application made on or after 6 April 2015, which means that it is a biometric residence card, and it has not expired by more than 60 months at the date of application
- a biometric residence card (as described in sub-paragraph (a)(iii) of the definition of 'relevant document') issued by virtue of having been granted limited leave to enter or remain under Appendix EU, which has not expired by more than 60 months at the date of application

Family member of a qualifying British citizen

For guidance on a 'family member of a qualifying British citizen', see EU Settlement Scheme: family member of a qualifying British citizen.

This route under the scheme closed at 11:59pm on 8 August 2023 to new applications from those without status under it, except where they have been granted an EU Settlement Scheme family permit as a family member of a qualifying British citizen or where they held extant pre-settled status as such a family member before obtaining another form of immigration leave (such as under Appendix Victim of Domestic Abuse). If so, they can apply under the scheme:

- before the expiry of the leave to enter granted to them by virtue of having arrived in the UK with that EU Settlement Scheme family permit, or after its expiry where there are reasonable grounds for their delay in making their application
- before the expiry of that other form of immigration leave, or after its expiry where there are reasonable grounds for their delay in making their application

- on any date, where that other form of immigration leave is indefinite leave to enter or remain and, having held extant pre-settled status as a family member of a qualifying British citizen, they are now applying for settled status

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

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

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

Guidance on a 'person who had a derivative or Zambrano right to reside' is also provided in those documents.

The 'person with a Zambrano right to reside' route under the scheme closed at 11:59pm on 8 August 2023 to new applications from those without status under it, except where they have been granted an EU Settlement Scheme family permit as a 'specified EEA family permit case' on that basis. If so, they can apply under the scheme before the expiry of the leave to enter granted to them by virtue of having arrived in the UK with that entry clearance or after the expiry of that leave to enter where there are reasonable grounds for their delay in making their application.

Related content
Contents
Persons exempt from control
Frontier worker permit scheme caseworker guidance
EU Settlement Scheme: family permits

Related external links
Appendix EU to the Immigration Rules
EU Settlement Scheme: family and travel permits
Immigration (European Economic Area) Regulations 2016
Lounes (C-165/16)
Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020
Chen and Ibrahim / Teixeira cases

Making an application: validity

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

- it has been made using the required application process
- the required proof of identity and nationality has been provided, where the application is made within the UK
- the required proof of entitlement to apply from outside the UK has been provided, where the application is made outside the UK
- the required biometrics have been provided
- it has been made by the required date, where the date of application is on or after 9 August 2023
- the applicant, if they rely on being a joining family member of a relevant sponsor and where the date of application is on or after 9 August 2023, is not a specified enforcement case

Required application process: applications made online

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

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

Required application process: applications made on paper application form

Applicants must apply using either:

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

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

- providing the required proof of identity and nationality or the required proof of entitlement to apply from outside the UK
- providing the required biometrics

The required paper application form must be the most recent version of that form. Where the applicant applies using an older version of the required paper application form, the transitional arrangements set out in paragraph 34Y of Part 1 of the Immigration Rules apply. This means that where an application is made on the previous version of the specified form, no more than 21 days after the date on which

the new version of the specified form is issued, the application will be deemed to have been made on the correct form.

Where the applicant applies using a paper application form, it must be sent by pre-paid post or courier to the Home Office address specified on the form (where one is specified), or by email to the Home Office email address specified on the form (where one is specified).

Required proof of identity and nationality

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

For a non-EEA citizen making an application within the UK, this will be their valid passport, valid specified relevant document (their biometric residence card) or valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007 and known as a biometric residence permit). Where a biometric residence card is provided, it must not have expired by more than 60 months at the date of application. Where a biometric residence permit is provided, it must not have expired by more than 18 months at the date of application.
Unless, in either case, you agree to accept alternative evidence of identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or due to compelling or compassionate reasons. For further guidance, see Alternative evidence of identity and nationality or of entitlement to apply from outside the UK.

'Valid' here means that the document is genuine and has not expired (in the case of a passport or national identity card) or been cancelled or invalidated at the point it is provided.

If, by the date the application is submitted (in accordance with the 'date of application' as defined in Annex 1 to Appendix EU, where this is later than the date the document was provided) or considered, the document has expired (or, in the case of a biometric residence card, it has expired by more than 60 months, or in the case of a biometric residence permit, it has expired by more than 18 months), the application remains valid for the purposes of rule EU9 of Appendix EU.

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

Evidence of the EEA citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuity of residence (for the period on the basis of which they were granted status) in any subsequent application under the scheme by a person relying on their family relationship to that EEA citizen.

Required proof of entitlement to apply from outside the UK

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

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

For a non-EEA citizen making an application from outside the UK, this will be their valid specified relevant document, which must not have expired by more than 18 months at the date of application.

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

'Valid' here means that the document is genuine and has not expired (in the case of a passport or national identity card) or been cancelled or invalidated at the point it is provided. If, by the date the application is submitted (in accordance with the 'date of application' as defined in Annex 1 to Appendix EU, where this is later than the date the document was provided) or considered, the document has expired (or, in the case of a specified relevant document, it has expired by more than 18 months), the application remains a valid application for the purposes of rule EU9 of Appendix EU.

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

Required biometrics

Under the Immigration (Provision of Physical Data) Regulations 2006 (as amended), all applicants are required to provide a passport-style facial photograph of themselves (within the meaning of "biometric information" in section 15 of the UK Borders Act 2007) as part of the required application process.

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

Required date

An application under Appendix EU, made on or after 9 August 2023, must be made by the required date.

Where the date of application is before 9 August 2023, there is no validity (or eligibility) requirement for the application to have been made by the required date, and you can move on to the next stage of the validity consideration.

Where this guidance refers to the 'required date', this means, where the date of application is on or after 9 August 2023, the deadline to apply to the EU Settlement Scheme, as set out below.

Where the applicant does not have limited leave to enter or remain (pre-settled status under the EU Settlement Scheme) or indefinite leave to enter or remain (settled status under the scheme) granted under Appendix EU:

- where the applicant relies on being a **joining family member of a relevant sponsor** (and the applicant is not a specified spouse or civil partner of a Swiss citizen, does not have other limited leave to enter or remain and is not exempt from immigration control) **and the date on which the applicant first arrived in the UK after 31 December 2020 was on or after 1 April 2021**: the deadline is within 3 months of the date on which they first arrived in the UK after 31 December 2020 (or, where they arrived in the UK with more than 3 months' validity remaining on an **EU Settlement Scheme family permit**, before the expiry of their leave to enter if leave has not been cancelled, curtailed or invalidated), unless that deadline was not met and 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 making their application
- where the applicant relies on being a specified spouse or civil partner of a Swiss citizen and the date on which the applicant first arrived in the UK after 31 December 2020 was on or after 1 April 2021 (and the applicant does not have other limited leave to enter or remain and is not exempt from immigration control): the deadline is within 3 months of the date on which they first arrived in the UK after 31 December 2020 (or, where they arrived in the UK with more than 3 months' validity remaining on an EU Settlement Scheme family permit, before the expiry of their leave to enter if leave has not been cancelled, curtailed or invalidated), and before 1 January 2026, unless that deadline was not met and 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 making their application
- where the applicant relies on being a **joining family member of a relevant sponsor** and **the applicant is a child who is born or adopted in the UK on or after 1 April 2021** (or who, on or after that date, becomes subject in the UK to one of the guardianship orders or equivalent in sub-paragraphs (a)(iii) to (a)(xi) of the definition of 'child' in Annex 1 to Appendix EU): the deadline is within 3 months of the date on which they were born or adopted in the UK (or became subject in the UK to such an order), unless that deadline was not met and you are satisfied by information provided with the application that, at the

date of application, there are reasonable grounds for the delay in application being made

- where the applicant relies on being a **family member of a qualifying British citizen**, the deadline is before 9 August 2023 (or, where they were granted an **EU Settlement Scheme family permit** as such a family member, before the expiry of the leave to enter granted to them by virtue of having arrived in the UK with that entry clearance, if leave has not been cancelled, curtailed or invalidated, or after the expiry of that leave to enter where 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 making their application)
- where the applicant relies on being a **person with a Zambrano right to reside**, the deadline is before 9 August 2023 (or, where they were granted an **EU Settlement Scheme family permit** as a 'specified EEA family permit case' on that basis, before the expiry of the leave to enter granted to them by virtue of having arrived in the UK with that entry clearance, if leave has not been cancelled, curtailed or invalidated, or after the expiry of that leave to enter where 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 making their application)
- **in all other cases** (save where a joining family member of a relevant sponsor is applying from outside the UK, is not caught by any of the other deadline provisions and may therefore apply at any time): the deadline is before 1 July 2021, unless that deadline was not met and 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 making their application

Reasonable grounds for missing the 30 June 2021 deadline (or the applicable deadline as a joining family member of a relevant sponsor) are deemed by Appendix EU to exist in the case of an applicant who either:

- has **limited leave to enter or remain** granted under another part of, or outside, the Immigration Rules (except where such leave is, or was, as a visitor), which has not lapsed or been cancelled, curtailed or invalidated, and the date of expiry of that leave is on or after 1 July 2021 or the applicable deadline as a joining family member of a relevant sponsor – where this occurs, the deadline is before the date of expiry of their leave (which they have held, or did hold, continuously since before 1 July 2021 or the applicable deadline as a joining family member of a relevant sponsor), unless that deadline was not met and 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 making their application
- ceases to be **exempt from immigration control** on or after 1 July 2021 – where this occurs, the deadline is within 90 days beginning on the day on which they ceased to be exempt from immigration control, unless that deadline was not met and 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 making their application

A 'visitor' is defined in Annex 1 to Appendix EU as meaning a person granted permission under paragraphs 40 to 56Z, 75A to M or 82 to 87 of the Immigration

Rules in force before 24 April 2015 or Appendix V on or after 24 April 2015 or Appendix V: Visitor after 9am on 1 December 2020, or a person to whom article 4 or 6 of the Immigration (Control of Entry through Republic of Ireland) Order 1972 applies, unless (in either case) both:

- they are the spouse or civil partner of a relevant sponsor (as described in sub-paragraph (a)(i)(bb) of the entry for 'joining family member of a relevant sponsor' in Annex 1 to Appendix EU) or the specified spouse or civil partner of a Swiss citizen
- their leave permitted them to marry or form a civil partnership in the UK with that relevant sponsor or with that Swiss citizen and they did so

Where the applicant has limited leave to enter or remain granted under Appendix EU (pre-settled status under the EU Settlement Scheme), which has not lapsed or been cancelled, curtailed or invalidated, there is no deadline for them to apply for indefinite leave to enter or remain under Appendix EU (settled status under the scheme). They are however encouraged to apply for it as soon as they qualify.

Where the applicant is an EU, other EEA or Swiss citizen, or their family member (including a joining family member or a family member who has retained the right of residence by virtue of a relationship with them), who has extant pre-settled status and has then obtained another form of immigration leave, such as settlement under Appendix Victim of Domestic Abuse, they will retain their pre-settled status alongside the other form of immigration leave. There is no deadline for them to apply, if they wish, for settled status under Appendix EU once they are eligible for it based on their continuous residence in the UK.

Joining family members

Where the applicant relies on being a joining family member of a relevant sponsor and the date on which the applicant first arrived in the UK after 31 December 2020 was before 1 April 2021, the deadline for them to apply to the EU Settlement Scheme was before 1 July 2021, unless that deadline was not met and 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 making their application.

Where a deadline other than 30 June 2021 applies to the applicant and they indicate they are applying within that deadline, they are expected to provide evidence confirming this.

A joining family member of a relevant sponsor who has indicated they are applying within 3 months of arriving in the UK is required to provide evidence to support that, such as:

- an inbound travel ticket stamped when they arrived
- an inbound ticket without proof of arrival (for example an e-ticket) alongside supplementary evidence confirming physical presence in the UK following their arrival (for example, a letter from a government department, public body or charity confirming a physical meeting)

- a copy of a stamped page in their passport confirming their entry (where applicable)

You must assess whether, based on the information and evidence available, including Advance Passenger Information data or any information recorded on Home Office systems, you are satisfied that the application has been made within 3 months of their first arrival in the UK after 31 December 2020.

Where, in making their first application to the EU Settlement Scheme, a person applying as a joining family member of a relevant sponsor (and to whom the 30 June 2021 deadline does not apply) has failed to provide evidence to support their declaration that they are applying within 3 months of their first arrival in the UK after 31 December 2020 and you are not able to verify that declaration, then, if the application does not fall to be rejected on a different basis, you must write to the applicant (by email or post, taking account of their preference between these where this has been specified as part of the application) and give them 14 calendar days to provide that evidence. Where you write to them by Royal Mail Tracked24 post, you may assume delivery on the second business day after the date of postage.

Where, in light of evidence or further information provided by the applicant within that 14-day period, you are satisfied that the application has been made within 3 months of the applicant's first arrival in the UK after 31 December 2020 (or that there are reasonable grounds for their delay in making their application), you can move on to any remaining stage of the validity consideration. Otherwise, including where the applicant does not respond within that 14-day period, the application must be rejected as invalid under rule EU10(1) of Appendix EU. If the person considers that they can establish that they are applying within 3 months of their first arrival in the UK after 31 December 2020 (or that there are reasonable grounds for their delay in making their application), they can reapply to the scheme and provide the requisite information and evidence.

Where an application for a joining family member of a relevant sponsor who is a child born in the UK (or adopted in the UK) is made within 3 months of their birth (or adoption), it is necessary only to provide their birth certificate or an identity document showing their date of birth (or, in the case of adopted child, the adoption certificate) to evidence that the application is being made within the deadline.

A joining family member of a relevant sponsor who has indicated they are applying within 90 days of ceasing to be exempt from immigration control or before their current permission to stay in the UK expires, is expected to provide evidence they are applying within the deadline. Home Office systems may also be used to obtain or confirm this information.

Reasonable grounds for delay in making an application

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

Where a person who has failed to meet the deadline applicable to them wishes to apply to the EU Settlement Scheme on or after 9 August 2023, they must make an application under Appendix EU – online or on the relevant paper application form – and provide information and evidence with the application setting out their grounds for their delay in making their application.

The guidance below describes some circumstances in which you may be satisfied that a person has reasonable grounds for their delay in making their application. It is not exhaustive and every case must be considered in light of its circumstances and the evidence provided.

In all cases, the relevant test is whether, on the balance of probabilities and based on all the information and evidence provided by the applicant or otherwise available to you, you are satisfied that, at the date of application, there are reasonable grounds for the person's delay in making their application under the EU Settlement Scheme.

In general, the more time which has elapsed since the deadline applicable to the person under the scheme, the harder it will be for them to satisfy you that, at the date of application, there are reasonable grounds for their delay in making their application. The person must have reasonable grounds for their delay as a whole, and not simply for failing to meet the deadline applicable to them. Whether there are such reasonable grounds will depend on the circumstances of the case and the evidence provided.

For example, where a person subject to the 30 June 2021 deadline for applying to the scheme had a serious illness (or was undergoing significant medical treatment) around the time of that deadline, that will normally have constituted reasonable grounds for them to have missed it. However, that will not in itself constitute reasonable grounds for their delay in making their application if they now seek to make a late application to the scheme. They will need to show they have reasonable grounds, in line with this guidance, for not having applied in the intervening period.

Where a person misses their deadline for applying to the scheme as a joining family member of a relevant sponsor, as a person with other limited leave to enter or remain or exempt from immigration control or as an EUSS family permit-holding family member of a qualifying British citizen, you must take into account the extent of their delay in making their application and the reasons for it. In all cases, you must assess whether there are reasonable grounds for their delay in making their application.

In addition, where a person misses their deadline for applying to the scheme as a joining family member of a relevant sponsor (within 3 months of the date – where this was on or after 1 April 2021 – on which they first arrived in the UK after 31 December 2020), because they have visited the UK since 31 December 2020 and left before the expiry of their leave to enter as a visitor (or of their EUSS family permit) and without making an application to the scheme, and they are now applying to the scheme for the first time to join or remain with their relevant sponsor in the UK, you must make an assessment of whether there are reasonable grounds for their delay in making their application. There will normally be such reasonable grounds

where, for example, the applicant can show that circumstances are such that they now wish to stay in the UK with their relevant sponsor – for example, so that they can work here – and they have applied to the scheme as soon as they then reasonably can (and, where they have since returned to the UK, within 3 months of their latest arrival).

In all cases, you will ordinarily need to see objectively verifiable evidence to be satisfied that there are reasonable grounds for the person's delay in making their application to the scheme (for example, a letter from a doctor).

Repeat applications

Where a person has already made an **in-time application** to the EU Settlement Scheme, and this application has been **refused**, they will not normally be able to make a late application to the scheme based on there being reasonable grounds for their delay in making their application, as they previously met the deadline applicable to them. Consistent with the Citizens' Rights Agreements, the decision on their in-time application will have considered whether they qualify for status under the EU Settlement Scheme, subject to any application for appeal or (where the eligible decision was made before 5 October 2023) administrative review.

They will not normally therefore be able, after the deadline applicable to them, to make a further, valid application to the scheme. However, there may be occasional circumstances in which there may be reasonable grounds for a refused, in-time applicant to make a late, further application to the scheme, such as, for example, where there is a good reason related to an underlying physical or mental condition why they did not engage with our attempts to contact them following an earlier, in-time application to obtain further information or evidence as to their eligibility for status under the scheme. Whether there are such reasonable grounds will depend on the circumstances of the case and the evidence provided.

A person may make a further application to the EU Settlement Scheme where an application resulted in a grant of status as a joining family member of a relevant sponsor and where, despite being given a reasonable opportunity to do so before that application was decided, the person now wishes to provide evidence that they are in fact a relevant EEA citizen or the family member of a relevant EEA citizen (such as that they were resident in the UK by the end of the transition period, they maintained the required continuity of residence thereafter and, where appropriate, there are reasonable grounds why they missed the 30 June 2021 deadline). As they already have status under the EU Settlement Scheme, there is no deadline for them to make such a further application, but they are encouraged to do so as soon as practicable.

Where a person has already made a **late application** to the EU Settlement Scheme and this application has been **refused**, then they will not normally be able to establish that there are reasonable grounds for them to make a further late application to the scheme. Consistent with the Citizens' Rights Agreements, the decision on their late application will have considered whether they qualify for status under the EU Settlement Scheme, subject to any application for appeal or (where the eligible decision was made before 5 October 2023) administrative review. However,

there may be occasional circumstances in which there may be reasonable grounds for a refused late applicant to make a further late application to the scheme. This may include, for example, where there is a good reason related to an underlying physical or mental condition why they did not engage in the earlier late application with the need to provide information and evidence as to the reasonable grounds for their delay in making their application. Whether they can establish such reasonable grounds will, however, depend on the circumstances of the case and the evidence provided.

Where a person resident in the UK before the end of the transition period on 31 December 2020 has already made an **in-time or late application** to the EU Settlement Scheme as a child aged over 21 or a dependent parent, and this application was **refused** as they were not considered **dependent** on the relevant EEA citizen (or on their spouse or civil partner) at the date of application (or at the end of the transition period where this was earlier) because they were in **paid employment or self-employment**, then, where there has not been undue further delay since this guidance was updated to this effect on 9 April 2025, there will be reasonable grounds for them to make a late (or further late) application to the scheme. In doing so, they can rely on the Court of Appeal judgment in R (Ali) v Secretary of State for the Home Department [2024] EWCA Civ 1546, which found that, where they were resident in the UK before the end of the transition period, the right to reside of a child aged over 21 or a dependent parent is not lost where they ceased to be dependent as a result of exercising their right to work in the UK.

Where a person has already made a **late application** to the EU Settlement Scheme and this application has been **rejected** because they did not provide the information and evidence required to establish that there are reasonable grounds for their delay in making their application, then they can make a further late application to the scheme providing that information and evidence.

Where a person has already made a **late application** to the EU Settlement Scheme and this application has been **rejected** because they did not use the required application process, they did not provide the required proof of identity and nationality (or of entitlement to apply from outside the UK) or they did not provide the required biometrics, they can make a further late application rectifying that error or omission where they also provide the information and evidence required to establish that there are reasonable grounds for their delay in making their application.

Examples of reasonable grounds

The section describes some circumstances in which you may be satisfied that a person has reasonable grounds, such as compelling practical or compassionate circumstances, for their delay in making their application under the EU Settlement Scheme. However, it is not exhaustive and every case must be considered in light of its circumstances and the evidence provided, though you may give more weight to evidence which is objectively verifiable.

Exempt from immigration control

A person exempt from immigration control can apply for and, where they qualify for it, be granted status under the EU Settlement Scheme while they remain a person exempt from immigration control. Alternatively, they can apply to the scheme by the required date once they cease to be exempt from immigration control and in the meantime their non-exempt family members are able to apply.

Where an EEA citizen or their family member resident in the UK by the end of the transition period did not cease to be exempt from immigration control until after the 30 June 2021 deadline, or where a joining family member of a relevant sponsor does not cease to be so until more than 3 months after their arrival in the UK (or their birth, adoption or the making of a relevant guardianship order in the UK), Appendix EU deems this in itself to be reasonable grounds for their failure to meet that deadline if they choose to apply to the scheme after ceasing to be exempt from immigration control. Instead, the deadline for them to apply is within the period of 90 days beginning on the day on which they ceased to be exempt from immigration control.

This is consistent with the period of 90 days during which, under section 8A of the Immigration Act 1971, a person ceasing to be exempt is treated as having leave to remain in the UK, during which they can apply for the immigration status required to continue living in the UK if they wish to do so.

Beyond that 90-day period, they can make a late application to the scheme where you are satisfied, in line with this guidance, that, at the date of application, there are reasonable grounds for their delay in making their application. In all late applications based on exemption from immigration control, you will need to see official evidence from the applicant or other information available to you which confirms that exemption and the date on which it ceased. Relevant evidence of this could include either:

- an exempt vignette
- a letter from the Foreign, Commonwealth & Development Office confirming the period of exempt status
- a letter from the relevant embassy, high commission or international organisation confirming the period of the person’s relevant employment and residence in the UK

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

Example 1

A is an EEA citizen who has been resident in the UK since 2017 and who was working as an employee of an international organisation based in the UK and was exempt from immigration control while employed in that capacity. In August 2023, she changes employment and ceases to be exempt from immigration control as a result. In September 2023, A makes an application to the EU Settlement Scheme and provides a letter from her former employer setting out the period of her

employment with them and official evidence of her exemption from immigration control while in that employment. These are reasonable grounds for A's delay in making her application to the scheme.

Example 2

B arrives in the UK in March 2023 as a joining family member. Following his arrival, he works here as an employee of a relevant international organisation and is thereby exempt from immigration control. In October 2023, B ends his employment with that organisation and therefore ceases to be exempt from immigration control. In January 2024, B reaches the end of the 90-day period after ceasing to be exempt from immigration control, in which he is treated as having leave to remain and immediately makes an application to the EU Settlement Scheme. B provides a letter from his employer setting out the period of his employment with them and official evidence of his exemption from immigration control while in that employment. These are reasonable ground for B's delay in making his application to the scheme.

Existing limited leave to enter or remain

Where an EEA citizen or their family member resident in the UK by the end of the transition period has limited leave to enter or remain granted under another part of the Immigration Rules (or outside the rules, for example, Discretionary Leave, or by one of the Islands, including under its EU Settlement Scheme), other than as a visitor, which does not expire until after the 30 June 2021 deadline (and which they have held, or did hold, continuously since before that deadline), or where a joining family member of a relevant sponsor has such leave, other than as a visitor, which does not expire until more than 3 months after their arrival in the UK, Appendix EU deems this in itself to be reasonable grounds for their failure to meet that deadline. Instead, the deadline for them to apply is before the date of expiry of their existing leave.

This does not apply to limited leave to enter or remain extended by section 3C of the Immigration Act 1971, where the in-time application giving rise to the 3C leave was not made under EU Settlement Scheme. In those circumstances, the deadline applicable to the person is the date of expiry of their previous limited leave to enter or remain and they are required to provide reasonable grounds for their delay in applying to the scheme since that deadline.

In the case of a joining family member of a relevant sponsor who was granted an EU Settlement Scheme family permit and arrives in the UK with more than 3 months' validity remaining on the family permit, the deadline for them to apply will be the date of expiry of the leave to enter granted to them by virtue of having arrived in the UK with that entry clearance. Where that leave to enter has been cancelled, curtailed or invalidated, they will not be able to meet the 'required date' requirement and their application must be rejected.

In the case of a family member of a qualifying British citizen or a person with a Zambrano right to reside who was granted an EU Settlement Scheme family permit on that basis, the deadline for them to apply will be the date of expiry of the leave to enter granted to them by virtue of having arrived in the UK with that entry clearance.

Where that leave to enter has been cancelled, curtailed or invalidated, they will not be able to meet the ‘required date’ requirement and their application must be rejected.

A person can make a late application to the scheme after the date of expiry of their existing leave where you are satisfied, in line with this guidance, that, at the date of application, there are reasonable grounds for their delay in making their application, ordinarily based on objectively verifiable evidence.

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

Example

C is a non-EEA citizen joining family member of a relevant sponsor. C was granted a visa as a skilled worker under the Immigration Rules in January 2021, which expired in July 2023. He suffered a short illness in July 2023 which resulted in a period of hospitalisation following the expiry of that leave, which is evidenced by a doctor’s letter. C makes an application to the scheme in August 2023. These are reasonable grounds for C’s delay in making his application to the scheme.

Official – sensitive: start of section

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Official – sensitive: end of section

Indefinite leave to enter or remain held since before the end of the transition period

Where an EEA citizen or their family member resident in the UK by the end of the transition period has indefinite leave to enter or remain granted under another part of (or outside) the Immigration Rules (or automatically under the Immigration Act 1971,

or by one of the Islands, including under its EU Settlement Scheme) which they have held since before the end of the transition period at 11pm GMT on 31 December 2020, there is no requirement for them to apply to the EU Settlement Scheme.

They may do so if they wish, for example, as an alternative to making a “no time limit” (NTL) application, because indefinite leave to enter or remain granted under the scheme (settled status) does not lapse if the person is absent from the UK and Islands for up to 5 consecutive years (rather than 2 consecutive years as for other forms of such leave).

The application deadline of 30 June 2021 applied to them. Therefore, if they do choose to make a late application to the scheme, they will need to evidence reasonable grounds for their delay in making their application in line with this guidance. However, in the case of a first-time applicant to the EU Settlement Scheme with indefinite leave to enter or remain held on another basis since before the end of the transition period, you may regard this as reasonable grounds for their delay in applying, where you are satisfied that they had a reasonable belief that they did not need to apply earlier to the EU Settlement Scheme or a reasonable basis for being unaware that they needed to apply: see Circumstances which will not generally constitute reasonable grounds for delay in making an application.

Children (including children in care and care leavers)

Where a parent, guardian or local authority has failed by the relevant deadline to apply to the EU Settlement Scheme on behalf of a child who was then under the age of 18, that will constitute reasonable grounds for the delay in making the application where a late application is made by the child where they remain under the age of 18 (or by a parent, guardian or local authority on their behalf).

It will also generally constitute reasonable grounds for the delay in making the application where a late application is made by the person where they are now an adult (or by an appropriate third party on their behalf), where a local authority has failed to support a care leave in applying in-time to the scheme. It may be some months or even years after the deadline has passed before a person who was a child at the time realises – perhaps when they first need to evidence their immigration status in order to work or study in the UK – that an application to the scheme should have been made on their behalf by a parent, guardian or local authority and was not.

Where they become aware as an adult that an application to the scheme should have been made on their behalf as a child and was not, or that they are an EEA or Swiss citizen resident in the UK before the end of the transition period (or their family member) rather than a British citizen, they should then make a late application to the scheme within a reasonable period. While the time it takes to realise the need to apply will depend on the circumstances of each case, you must be satisfied the delay is reasonable and sufficiently justified. Longer delays may be harder to justify, depending on the circumstances of the case.

There may be a range of circumstances in which an application to the EU Settlement Scheme by the relevant deadline has not been made for or by the child. For example:

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

You do not need to consider the reasons why a parent, guardian or local authority failed to apply to the scheme on behalf of the child by the relevant deadline, or why the child did not make an application on their own behalf by that deadline. You also do not need to consider the reasons why a local authority failed to support a care leaver in applying to the scheme by the relevant deadline.

Evidence that may satisfy you that a parent, guardian or local authority has failed by the relevant deadline to apply to the EU Settlement Scheme on behalf of a child under the age of 18, or where a local authority has failed by the relevant deadline to support a care leaver in applying to the scheme, may include a letter from the parent, guardian or local authority confirming the relevant circumstances and appropriate evidence of the person's age at the relevant deadline.

You do not need to consider the detailed basis on which a child was in local authority care or a person is or was a care leaver.

More information, including as to the relevant definition of child in care or care leaver applicable in each part of the UK, is available in EU Settlement Scheme – looked after children and care leavers: local authority and health and social care trust guidance.

Example 1

The EEA citizen parents of D, also an EEA citizen, have been resident with her in the UK since September 2015. They made an application to the EU Settlement Scheme in December 2020 and were granted settled status but mistakenly assumed that their

daughter would be automatically granted this status in line with theirs without having to apply. This did not come to light until D applied to university in the UK in 2023 and was required to provide evidence of her immigration status in the UK. D then immediately applied to the EU Settlement Scheme. These are reasonable grounds for D's delay in making her application to the scheme.

Example 2

E is aged 19, has lived in the UK for 10 years and is a care leaver, having left local authority care after 6 years in care. From the information available to them, the local authority thought that E was a British citizen, but recent action to complete an application for a UK passport for him has established that he is an EEA citizen and not a British citizen. E applied to the EU Settlement Scheme shortly after learning this. These are reasonable grounds for E's delay in making his application to the scheme.

Physical or mental capacity and / or care or support needs

Where a person lacks the physical or mental capacity to apply to the EU Settlement Scheme and has continued to do so since the deadline applicable to them, that will normally constitute reasonable grounds for the person's delay in making their application to the scheme or for an appropriate third party to apply to the scheme on their behalf.

Where a person has significant, ongoing care or support needs and has continued to do so since the deadline applicable to them, that will also normally constitute reasonable grounds for the person's delay in making their application to the scheme or for an appropriate third party to apply to the scheme on their behalf. This may include adults with physical or mental capacity issues. It may also include adults with broader care or support needs, such as those who may be residing in a residential care home; receiving significant, ongoing care and support in their own home, with long-term physical or mental health needs or a disability; or receiving ongoing outreach support for addiction or other issues and who may lack permanent accommodation.

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

- evidence that a formal arrangement, such as a Power of Attorney, is or was in place in respect of the person
- a letter from a doctor, health professional, social services department, outreach worker or solicitor confirming the circumstances for the relevant period
- a letter from the applicant themselves confirming the circumstances for the relevant period, which has been endorsed by a doctor, health professional, social worker, outreach worker or solicitor and which authorises an appropriate third party to act on their behalf
- evidence for the relevant period of a carer relationship where an appropriate third party has been providing for the person's care needs, for example a

Department for Work and Pensions' letter confirming the eligibility for the relevant period of the third party for Carer's Allowance

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

Example 1

F is an EEA citizen, aged 75, who lives alone. His dementia means that he often struggles to complete everyday tasks and he receives local authority care and support services in his own home. A friend points out to F that he needs to make an application to the EU Settlement Scheme and offers to complete the application for him. F agrees and the friend makes an application to the scheme for him, uploading a letter signed by F, and endorsed by his doctor, explaining the circumstances and authorising the friend to act on his behalf. These are reasonable grounds for F's delay in making his application to the scheme.

Example 2

G is an EEA citizen, aged 85, and lives in a care home. She was unaware of the EU Settlement Scheme until a member of staff at the care home mentioned it to her. The member of staff helps G to complete an application herself to the scheme. These are reasonable grounds for G's delay in making her application to the scheme.

Serious medical condition or significant medical treatment

Where a person has a serious medical condition or is undergoing significant medical treatment around the time of the deadline applicable to them, that may constitute reasonable grounds for their delay in making their application to the EU Settlement Scheme.

A serious medical condition could include for example:

- an illness or accident which meant that the person was hospitalised or bedbound around the time of the deadline applicable to them
- an illness or accident which otherwise meant that the person was unable to perform day-to-day tasks around the time of the deadline applicable to them

Pregnancy or maternity around the time of the applicable deadline may be a reason for a person's delay in making their application to the EU Settlement Scheme, for example where a woman has a difficult childbirth or where a new-born child needs medical treatment, where they then make a late application as soon as they reasonably can.

Where a person subject to the 30 June 2021 deadline for applying to the scheme had a serious medical condition (or was undergoing significant medical treatment) around the time of that deadline, that will normally have constituted reasonable grounds for them to have missed it. However, that will not in itself constitute reasonable grounds for their delay in making their application if they now seek to

make a late application to the scheme. They will need to show they have reasonable grounds, in line with this guidance, for not having applied in the intervening period. It is likely to be only in the most serious circumstances that those reasonable grounds can continue to rely solely on the same serious medical condition or significant medical treatment.

Where a person had a serious medical condition (or was undergoing significant medical treatment) around the time of their deadline for applying to the scheme as a joining family member of a relevant sponsor, as a person with other limited leave to enter or remain or exempt from immigration control or as an EUSS family permit-holding family member of a qualifying British citizen, that will normally have constituted reasonable grounds for them to have missed it. You must then consider the extent of their delay in making their application and the reasons for it. You must assess whether there are reasonable grounds for their delay in making their application.

Evidence that a person had a serious medical condition (or was undergoing significant medical treatment) around the time of the deadline applicable to them (and, where relevant, since then) may include:

- a letter from a doctor or other health professional confirming the circumstances (including an outline of the serious medical condition or the significant medical treatment and its timing and duration)
- a letter from a legal representative or other appropriate third party confirming the circumstances (including the nature, timing and duration of the serious medical condition or significant medical treatment)

Where a person had a serious medical condition (or was undergoing significant medical treatment) around the time of the deadline applicable to them, that will also normally constitute reasonable grounds for their delay in making an application to the EU Settlement Scheme in respect of a child or other dependent family member reliant on them to make an application to the scheme on their behalf where the person then makes that application for them as soon as they reasonably can.

Example

H is an EEA citizen joining family member of a relevant sponsor. She arrived in the UK in June 2023 but suffered a broken leg in a cycling accident in August 2023. H makes an application to the EU Settlement Scheme in October 2023 and provides a letter from her GP explaining the circumstances. These are reasonable grounds for H's delay in making her application to the scheme.

Abusive or controlling relationship or situation

Where a person was prevented from applying to the EU Settlement Scheme by the deadline applicable to them because they are or were a victim of domestic violence or abuse (or the family member of such a victim), or they are or were otherwise in a controlling relationship or situation which prevented them from applying by the applicable deadline, that will normally constitute reasonable grounds for the person's delay in making their application to the scheme. The nature of that abusive or

controlling relationship or situation may take one of several forms; you must take a flexible and pragmatic approach in considering each case in light of its circumstances and the evidence provided.

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

Factors to be considered when assessing the evidence include:

- the length of time since the alleged incident or incidents of domestic violence or abuse, or of other controlling behaviour, and any reasons given for this
- the person may not have realised that they were experiencing domestic abuse or may not have known how or where to get support
- the fact that the applicant and the perpetrator may still be living at the same address may not necessarily be taken as an indicator that the relationship has not broken down permanently as a result of abuse, as this could be due to a number of reasons – for example, the applicant's lack of access to safety and support, their fear of losing custody of any children, their fear for their or their children's safety, a lack of means to support themselves or their children financially, or religious or cultural beliefs or practices
- previous immigration history, particularly where there is evidence that the applicant has made a number of unsuccessful attempts to secure leave to remain in the UK on different grounds
- other evidence available from Home Office records
- supporting letters or information from a doctor, the police, social services or a refuge

For guidance on the type of evidence which may be produced and factors which are to be taken into account when considering whether the evidence is sufficient to demonstrate that the applicant is a victim of domestic violence or abuse, see the table of evidence for this in Victims of domestic violence and abuse.

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

Example

I is the non-EEA citizen spouse of an EEA citizen. I and her husband have lived together in the UK since 2018. Her husband regularly perpetrates physical and psychological abuse against I and keeps possession of her passport. A friend of I puts her in contact with a community organisation which assists victims of domestic abuse. In August 2023, that organisation helps I make an application to the EU Settlement Scheme, using such alternative evidence of her and her husband's identity and nationality and such evidence of their UK residence as is available to

her. These are reasonable grounds for I's delay in making her application to the scheme.

Served or serving a sentence of imprisonment

An EEA citizen or their family member resident in the UK before the end of the transition period who either acquired a right of permanent residence in the UK under EU law or resided in the UK for a continuous qualifying period of 5 years, before serving a sentence of imprisonment may be eligible for settled status under the EU Settlement Scheme. They can apply from prison (on a paper application form obtained from the Resolution Centre) or an appropriate third party can apply on their behalf, though any status granted will be invalidated if they are subsequently made subject to a deportation order.

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

- had reduced access to relevant documents required to make an application
- were unable to enrol their biometrics
- were awaiting a decision on whether they were to be made subject to a deportation order

and they made their application within a reasonable period of being released.

Example

J is an EEA citizen who has been resident in the UK since 2014. He was sentenced to imprisonment in June 2021, was not made subject to a deportation order and was released in June 2023. J makes an application to the EU Settlement Scheme in July 2023 and provides a letter from the resettlement officer at the prison explaining that there had been practical difficulties in facilitating his EUSS application during his incarceration. These are reasonable grounds for J's delay in making his application to the scheme.

Visited the UK since 31 December 2020

A person applying to the EU Settlement Scheme **for the first time** may be doing so as a joining family member of a relevant sponsor after the deadline of 3 months from their first arrival in the UK after 31 December 2020 because, since that date, they have made a visit / visits to the UK and left before the expiry of their leave to enter as a visitor (or of their EUSS family permit) and without making an application to the scheme. It will normally constitute reasonable grounds for their delay in making their application where they can show that circumstances are such that they now wish to stay in the UK with their relevant sponsor and they have applied to the scheme as soon as they then reasonably can (and, where they have since returned to the UK, within 3 months of their latest arrival).

This protects the position of those who have visited the UK since the end of the transition period on 31 December 2020 and relied on the previous guidance, which restarted the deadline for a joining family member application of 3 months from the date of arrival in the UK if they left the UK during that 3-month period and then returned.

This does not apply to those who have previously made an in-time or late application to the scheme which was refused or rejected. Unless they have now entered the UK with an EUSS family permit and are applying before its expiry, the deadline of 3 months from their first arrival in the UK after 31 December 2020 applies and they will be required to provide information and evidence that there are reasonable grounds for their delay in making their application.

Example

K is an EEA citizen applying as a joining family member of a relevant sponsor. She arrived in the UK in January 2024 but has previously visited the UK for 3 weeks in January 2022 and 4 weeks in February 2023. K makes her first application to the EU Settlement Scheme in March 2024 explaining that she did not previously intend to stay in the UK, but she now wishes to remain in the UK with her relevant sponsor to work here. These are reasonable grounds for K's delay in making her application to the scheme.

Limited leave to enter or remain (pre-settled status) granted in error

Where an EEA citizen, or their family member, has been granted limited leave to enter or remain (pre-settled status) under Appendix EU in error, they are able to make an in-time application to the EU Settlement Scheme while they continue to hold that pre-settled status. For example, they may wish to make a further application where they have been notified that their pre-settled status will not be extended automatically and they disagree that it was granted in error; or they may have been wrongly granted leave as a relevant EEA citizen and now wish to apply on a different basis, such as a joining family member.

Where they do not apply to the scheme before the date of expiry of their pre-settled status, they will need to show that there are reasonable grounds for their delay in applying since their pre-settled status expired.

Such a person can make a late application to the scheme after the date of expiry of their pre-settled status where you are satisfied, in line with this guidance, that, at the date of application, they have not made an in-time application to the scheme since being notified that their pre-settled status was granted in error, and there are reasonable grounds for their delay in making their application.

A person will not generally be able to satisfy you that there are reasonable grounds for their delay in making their application where they held pre-settled status and, on making an application for settled status, were informed as part of the refusal of that

application that their pre-settled status was granted in error, as they will have already had a right of appeal against that decision.

Example

L is an EEA citizen who was granted pre-settled status without the evidence required to confirm that he was, as he claimed, an EEA citizen resident in the UK before the end of the transition period. After being contacted by the Home Office, L was unable to provide the information or evidence required to show that his pre-settled status was granted correctly. L's pre-settled status expires in June 2026 and he does not make a further application to the scheme on being notified that his pre-settled status was granted in error. L makes a further application to the scheme in July 2026. L decided to wait until the end of the validity of his pre-settled status to make a further application but mistakenly applies after it has expired. These are reasonable grounds for L's delay in making his application to the scheme.

Circumstances which will not generally constitute reasonable grounds for delay in making an application

This section describes some circumstances in which you will not generally be satisfied that a person has reasonable grounds for their delay in making their application under the EU Settlement Scheme, but it is not exhaustive and every case must be considered in light of its circumstances and the evidence provided.

Given (a) the length of time (more than 4 years) since the opening on 30 March 2019 of the EU Settlement Scheme (under which an estimated 5.7 million people had obtained a grant of status by 31 December 2023) and (more than 2 years) since the deadline of 30 June 2021 for applications by those resident in the UK by the end of the transition period; (b) the wide range of communications activity and extensive engagement work undertaken with community groups, charities, employers and local authorities to raise awareness of the scheme and encourage those eligible to apply; and (c) the wide range of support available to applicants, including via Assisted Digital, the Resolution Centre and the UK-wide network of Home Office grant-funded organisations which have helped more than 500,000 vulnerable people to apply, some grounds for a person's delay in making their application will generally no longer be accepted.

For example, a person may state that they were unaware of the requirement to apply to the EU Settlement Scheme by the relevant deadline or that they failed to make an application by that deadline because they had no internet access, limited computer literacy or limited English language skills. These will generally no longer be considered reasonable grounds for their delay in making their application to the scheme, unless there are compelling practical or compassionate reasons beyond those – such as lacking the physical or mental capacity to apply or having significant, ongoing care or support needs – which are already covered by this guidance.

The following will also not generally be accepted as reasonable grounds for the person's delay in making their application:

- they were hampered in accessing the support available to help them apply by restrictions associated with the COVID-19 pandemic
- they overlooked the need to apply before the 30 June 2021 deadline, or they failed to get round to applying by that deadline, in light of their general personal circumstances, such as work or study commitments

However, every case must be considered in light of its circumstances and the evidence provided, though you may give more weight to evidence which is objectively verifiable.

For example, there may be circumstances in which a person has provided information and evidence that they had a reasonable belief that they did not need to apply earlier to the EU Settlement Scheme or a reasonable basis for being unaware that they needed to apply, and in either case they have now applied without further delay. Relevant factors to consider, based on credible information and supporting evidence, may include that the applicant:

- is a first-time applicant to the EU Settlement Scheme with a residence document issued under the EEA Regulations, indefinite leave to enter or remain under another route or long continuous UK residence identified by the automated checks of tax and benefits records
- has an EEA national spouse, civil partner or durable partner or other close family member or members who applied in-time to the scheme, but believed that they could rely on a residence document issued under the EEA Regulations
- has a compliant positive immigration history
- has received incorrect advice from an employer or landlord since the end of the grace period on 30 June 2021 as to their right to work or rent in the UK without EU Settlement Scheme status
- has travelled in and out of the UK since 30 June 2021 without being signposted to the scheme

The presence of such a factor in isolation may or may not be sufficient to satisfy you, on the balance of probabilities, that the applicant has reasonable grounds for their delay in making their application to the EU Settlement Scheme but may do so when multiple factors are present and the case is considered in the round. Every case must be considered in light of its circumstances and the evidence provided.

Example 1

L is an EEA citizen who worked in the UK from 2013 to 2021. In 2019, L applied for and was issued a document certifying the right of permanent residence under the EEA Regulations, as he had acquired the right of permanent residence in the UK under EU law. L misunderstood this to be a status which was not affected by the UK's exit from the EU, so he did not apply to the EU Settlement Scheme by the 30 June 2021 deadline and continued to work in his existing role. L then left the UK for 2 years to look after his seriously ill mother and came back to the UK in October 2023 and began to apply for work. A potential employer requested evidence of L's right to work in the UK and he presented his permanent residence document issued under

the EEA Regulations. The employer told L that the document was no longer valid for that purpose and that he needed to apply for status under the EU Settlement Scheme, which he did without further delay. These are reasonable grounds for L's delay in making his application to the scheme.

Example 2

M is a non-EEA citizen who has been living in the UK since 2007, near her son and his EEA citizen wife who have both worked in the UK since 2005. She is dependent on them for financial support and speaks very little English. In December 2013, M applied for and was issued a permanent residence card under the EEA Regulations, valid until December 2023, as she had acquired the right of permanent residence in the UK as the family member of an EEA citizen. Before its expiry date, M applied to the Home Office to replace her permanent residence card and was informed that this was not possible and that she needed to apply for status under the EU Settlement Scheme, which she did without further delay. These are reasonable grounds for M's delay in making her application to the scheme.

Joining family members and specified enforcement case

For applications under Appendix EU made on or after 9 August 2023, where an applicant relies on being a joining family member of a relevant sponsor, they must not be a 'specified enforcement case'. Where they are, you must reject the application as invalid.

A 'specified enforcement case' is defined in Annex 1 to Appendix EU as either:

- an "illegal entrant" within the meaning given in section 33(1) of the Immigration Act 1971 (save that, in respect of the reference there to "deportation order", the definition of 'deportation order' in Annex 1 to Appendix EU does not apply)
- an irregular arrival

Section 3(1)(a) of the Immigration Act 1971 states that a person who is not a British citizen shall not enter the UK unless given leave to do so in accordance with provisions of, or made under, that Act. Entry without leave is a breach of section 3(1)(a) and therefore constitutes illegal entry as defined by section 33(1) of the Immigration Act 1971.

Checking for evidence of illegal entry or irregular arrival

You must check the information on the application form and case working systems to see if there is evidence that the applicant, if relying on being a joining family member of a relevant sponsor in an application made on or after 9 August 2023, is an illegal entrant or an irregular arrival.

That will require evidence the applicant previously entered or sought to enter the UK either:

- in breach of a deportation order

- in breach of the immigration laws
- by means of deception (this includes deception by another person)
- as an irregular arrival

For more information, see:

- Irregular or unlawful entry and arrival
- Initial consideration and assessment of liability to administrative removal

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Breach of deportation order

Where a joining family member applicant has entered or sought to enter the UK in breach of any deportation order, their application, made on or after 9 August 2023, must be rejected as invalid. The definition of 'deportation order' in Annex 1 to Appendix EU does not apply for these purposes.

Where an applicant has been found to have entered in breach of a deportation order made before the end of the transition period at 11pm on 31 December 2020 and considers the order does not comply with the protection in the Agreements, the application must still be rejected as invalid. The appropriate course for such a person is to seek the revocation of their deportation order before they enter the UK.

For more information see:
Initial consideration and assessment of liability to administrative removal

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Breach of the immigration laws

An applicant who has entered or sought to enter the UK in breach of the immigration laws may include a person who has entered the UK clandestinely or without leave.

In assessing whether the applicant is in breach of immigration laws, you must note that in some circumstances, it is permissible to enter the UK without formal written leave, including:

- crews of aircraft and vessels granted 'deemed' leave for a short period to leave on another aircraft or vessel

- Australia, Canada, New Zealand, the United States of America, Japan, Singapore and South Korea (B5JSSK) nationals, as well as Irish, EU, other EEA and Swiss nationals using e-gates, granted leave to enter verbally by an immigration officer
- deemed leave for eligible arrivals via the Common Travel Area

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Use of deception (including deception by another person)

A person who has entered or sought to enter the UK by means of deception, will include where they make or cause to be made a false representation (contrary to section 26(1)(c) of the Immigration Act 1971).

Detailed guidance is available on how Immigration Officers and caseworkers have to prove whether, on the balance of probabilities, a person is an illegal entrant by deception.

Where, in an application made on or after 9 August 2023, the applicant is relying on being a joining family member who has entered or sought to enter the UK by deception, their application must be rejected.

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For more information see:
Initial consideration and assessment of liability to administrative removal.

Validity consideration

If an applicant submits an application which is missing any of the components required at rule EU9(a), (b), (c), (d) or (e) of Appendix EU for it to be valid, then, subject to the sub-sections below, they must be prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application.

The relevant validity requirements in those sub-paragraphs of rule EU9 are:

- under sub-paragraph (a), it has been made using the required application process
- under sub-paragraph (b), the required proof of identity and nationality has been provided, where the application is made within the UK
- under sub-paragraph (c), the required proof of entitlement to apply from outside the UK has been provided, where the application is made outside the UK
- under sub-paragraph (d), the required biometrics have been provided
- under sub-paragraph (e), it has been made by the required date, where the date of application is on or after 9 August 2023
- under sub-paragraph (f), the applicant, if they rely on being a joining family member of a relevant sponsor and where the date of application is on or after 9 August 2023, is not a specified enforcement case

Where the validity requirements at sub-paragraph (a), (b), (c), (d) or (e) of rule EU9 are not met after the applicant, subject to the sub-sections below, has been prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application, the application must be rejected as invalid under rule EU10(1) of Appendix EU. The rejection letter must explain the reason or reasons for the rejection, including, where relevant, why, by reference to any information or evidence provided by the applicant, you are not satisfied that they have reasonable grounds for their delay in making their application.

Where the validity requirement at sub-paragraph (f) of rule EU9 is not met, the application must be rejected as invalid under rule EU10(1) of Appendix EU. The rejection letter must explain the reason for the rejection.

Not using the required paper application form

Where the validity requirement at sub-paragraph (a) of rule EU9 is not met because the applicant has made an application online instead of using the required paper application form, where this is mandated on GOV.UK, the application must be rejected as invalid under rule EU10(1) of Appendix EU. In such cases, the applicant must be advised in the rejection letter of the requirement to apply using the required paper application form and how one can be obtained, but there is no requirement to contact the applicant before rejecting the application.

Fraudulent identity document

Where the validity requirement at sub-paragraph (b) or (c) of rule EU9 is not met because the applicant has submitted a fraudulent identity document (or fraudulent

alternative evidence), the application must be rejected as invalid under rule EU10(1) of Appendix EU. In such cases, there is no absolute requirement to contact the applicant to give them an opportunity to provide alternative evidence. However, before rejecting the application as invalid, procedural fairness requirements may require notifying the applicant in writing that you are considering rejecting their application on the basis that they have provided a fraudulent identity document, and setting out exactly what the allegation is in this regard (the basis on which you have concluded the document is fraudulent). It will rarely be necessary to send such notification where you have confirmed with the relevant issuing authority or with the National Fraud Unit that the document is fraudulent, or where you are also rejecting the application on another basis. If you are unsure whether the evidence provided is sufficient, you must discuss this with your senior caseworker who may refer to the EEA Citizens' Rights & Hong Kong Unit for further advice.

Where you are satisfied that, in line with procedural fairness principle, you must give the applicant the opportunity to respond to the allegation, you must give them 14 calendar days to respond. In your notification you must set out what the allegation is, making it clear that it is your view that there has been deception. For further guidance on procedural fairness see: Part Suitability: Deception, false representations, false documents and non-disclosure of relevant facts.

Non-EEA passport for EEA citizen

Where the validity requirement at sub-paragraph (b) or (c) of rule EU9 is not met because the applicant relies on being an EEA citizen but provides only a non-EEA (and non-British) passport, the application must be rejected as invalid under rule EU10(1) of Appendix EU. In such cases, there is no requirement to contact the applicant before rejecting the application.

No biometric residence card as claimed

Where the validity requirement at sub-paragraph (d) of rule EU9 is not met because the applicant wrongly indicated in their application that they hold a biometric residence card which has not expired by more than 60 months (and was therefore not asked to provide the required biometrics), the application must be rejected as invalid under rule EU10(1) of Appendix EU. In such cases, there is no need to contact the applicant before rejecting the application, but the applicant:

- where applicable, must be advised in the rejection letter of the need to indicate in any further application that they held a biometric residence permit (not a biometric residence card)
- all cases, must be advised in the rejection letter to comply in any further application with the request to provide the required biometrics
- can rely, where any further application is made promptly, on having made such an error as reasonable grounds for delay, or further delay, in making their application

Biometric residence card lost, stolen or expired by more than 60 months

Where the validity requirement at sub-paragraph (d) of rule EU9 is not met because the applicant wrongly indicated in their application that they hold a biometric residence card which has not expired by more than 60 months (and was therefore not asked to provide the required biometrics), but you establish that their biometric residence card (issued under the EEA Regulations or the EU Settlement Scheme) has been lost or stolen or has expired by more than 60 months, the application must be rejected as invalid under rule EU10(1) of Appendix EU. In such cases, there is no need to contact the applicant before rejecting the application, but the applicant:

- if they do not have status under the EU Settlement Scheme, must be advised in the rejection letter of the need to indicate in any further application that they do not hold a biometric residence card and to comply with the request to provide the required biometrics
- if they have pre-settled status under the EU Settlement Scheme, must be advised in the rejection letter that, if they wish to convert to settled status, they need to indicate in any further application that they do not hold a biometric residence card and to comply with the request to provide the required biometrics
- if they are outside the UK and have pre-settled or settled status under the EU Settlement Scheme, must be advised in the rejection letter that they must update their UK Visas and Immigration account with their current travel document or, if they cannot do that outside the UK, they can apply for an EUSS travel permit at GOV.UK

Reasonable grounds for the delay in applying

Where, on or after 9 August 2023, a person applies to the EU Settlement Scheme after the deadline applicable to them and does not provide any substantive information concerning their delay in making their application, or provides substantive information which, in line with this guidance, you do not consider to constitute reasonable grounds for their delay in making their application, you are not required to contact the applicant before rejecting the application and the application must be rejected as invalid under rule EU10(1) of Appendix EU. If the person considers that they have reasonable grounds for their delay in making their application, they can reapply to the scheme and provide the requisite information and evidence.

Where, on or after 9 August 2023, a person applies to the EU Settlement Scheme after the deadline applicable to them and provides substantive information concerning their delay in making their application which, in line with this guidance, you consider appears to constitute reasonable grounds for their delay in making their application, but they provide no or insufficient supporting evidence or you require further information, you must write to the applicant (by email or post, taking account of their preference between these where this has been specified as part of the application) and give them 14 calendar days to provide that evidence or further

information. Where you write to them by Royal Mail Tracked24 post, you may assume delivery on the second business day after the date of postage.

Where, in light of evidence or further information provided by the applicant within that 14-day period, you consider that there are reasonable grounds for their delay in making their application, you can move on to any remaining stage of the validity consideration. Otherwise, including where the applicant does not respond within that 14-day period, the application must be rejected as invalid under rule EU10(1) of Appendix EU. If the person considers that they have reasonable grounds for their delay in making their application, they can reapply to the scheme and provide the requisite information and evidence.

Where you have doubts regarding the authenticity of the evidence provided by the applicant in support of the reasonable grounds for their delay in applying because the document or documents do not meet the expected standard or comply with the published standard for an official document of that type and you are not able to objectively verify that evidence, you are not required to contact the applicant before rejecting the application. The application must be rejected as invalid under rule EU10(1) of Appendix EU and the rejection letter must explain your reasons for not accepting the evidence provided. If the person can substantiate the authenticity of that evidence or provide objectively verifiable alternative evidence to show there are reasonable grounds for their delay in making their application, they can reapply to the scheme with that further evidence.

Where an applicant has declared as part of their application that they are applying as a joining family member of a relevant sponsor, either:

- within 3 months of their first arrival in the UK after 31 December 2020
- from outside the UK and that they have not entered the UK since 31 December 2020

but they have provided no evidence of this (and this is not their first application to the EU Settlement Scheme: see Joining family members), or you have information which confirms that they have been to the UK since 31 December 2020 (or arrived on an earlier date since then than claimed) and are applying more than 3 months from their first arrival in the UK after 31 December 2020 (or after 30 June 2021 where their first arrival in the UK after 31 December 2020 was before 1 April 2021), you are not required to contact the applicant for further information or evidence. You must consider the application as having been made after the relevant deadline and assess whether there are reasonable grounds for their delay in making their application.

Where such an applicant has not provided any substantive information concerning their delay in making their application (or has provided substantive information which, in line with this guidance, you do not consider to constitute reasonable grounds for their delay in making their application), you are not required to contact the applicant before rejecting the application and the application must be rejected as invalid under rule EU10(1) of Appendix EU. The rejection letter must explain your reasons for treating the application as having been made after the relevant deadline. If the person can show that they are applying within 3 months of their first arrival in the UK after 31 December 2020 or considers that they have reasonable grounds for

their delay in making their application, they can reapply to the scheme and provide the requisite information and evidence.

Invalid sponsor for a joining family member application

Where, in an application to the EU Settlement Scheme made on or after 9 August 2023, the applicant relies on being a '[joining family member of a relevant sponsor]', but in their application provides, whether by way of a Unique Application Number, biographical information or otherwise, an invalid sponsor, i.e. a person who cannot **in any circumstances** be a '[relevant sponsor]', the application is not to be treated as a joining family member application.

You must instead treat the application as one to which the 30 June 2021 deadline is applicable and consider whether, in line with the guidance above, the applicant has reasonable grounds for their delay since then in applying. In the absence of substantive information concerning their delay, which you consider does or may constitute reasonable grounds for that delay, you are not required to contact the applicant before rejecting the application and the application must be rejected as invalid under rule EU10(1) of Appendix EU.

An invalid sponsor will be either:

- the applicant
- a fictitious person
- a person who is unidentifiable based on the limited information provided by the applicant (for example, the applicant only provided the name of the sponsor and you are unable to confirm that they are a relevant sponsor with status granted under rule EU2 or EU3 of Appendix EU or that they are a relevant person of Northern Ireland)
- a non-EEA citizen (other than a British citizen) who the applicant does not establish is also an EEA citizen
- an EEA citizen (other than an Irish citizen or who is relied on by the applicant as being a person exempt from immigration control or a frontier worker) who has a pending valid EU Settlement Scheme application or appeal but has not been granted status as a relevant EEA citizen (under rule EU2 or EU3 of Appendix EU)
- an EEA citizen whose status under the EU Settlement Scheme was granted as a joining family member (under rule EU2A or EU3A of Appendix EU)
- an EEA citizen whose status under the EU Settlement Scheme has been cancelled, curtailed or revoked
- a person relied on by the applicant as being a family member who cannot in any circumstances be a relevant sponsor of a joining family member (for example, an uncle, aunt or sibling)
- a person relied on by the applicant as being an 'other relative' and the claimed relationship is unidentifiable based on the limited information provided by the applicant and no evidence has been submitted with the application to substantiate the claimed relationship
- a person relied on by the applicant as being a family member who cannot in any circumstances be a relevant sponsor for that joining family member

because, for example, their date of birth confirms that the claimed family relationship is not possible (for example, a parent or grandparent who claims to be 5 years older than their claimed child or grandchild) and no evidence has been submitted with the application to substantiate the family claimed relationship
- a person relied on by the applicant as being a family member who cannot be a relevant sponsor of a joining family member because they have already been relied on by another person as the sponsor of such a family member (for example, a spouse, civil partner or durable partner) under the EU Settlement Scheme or for an EUSS family permit, and no evidence has been submitted with the application to substantiate the claimed relationship
- a person relied on by the applicant as being a joining family member and the applicant has already made an application to the EU Settlement Scheme based on that family relationship, and that application was refused because they failed to provide any evidence of that family relationship, and they have not provided any evidence of it with their current application

Any rejection letter must explain the reasons for the rejection, including why the sponsor on whom the joining family member application relied is not a valid sponsor and why, by reference to any information or evidence provided by the applicant, you are not satisfied that they have reasonable grounds for their delay in making their application since the 30 June 2021 deadline which is otherwise applicable.

If the applicant considers that they have a relevant sponsor for a joining family member application, they can reapply to the scheme and provide the requisite information and evidence.

Void applications

Under rules 34KA and 34KB of Part 1 of the Immigration Rules, an application is void where it would not be possible to grant the applicant the permission for which they applied and, if an application is void, it will not be considered.

Examples of where an application to the EU Settlement Scheme is void include where:

- the applicant is a British citizen (including a dual British citizen) or otherwise has the right of abode in the UK
- the applicant has been granted settled status under the EU Settlement Scheme and this status remains valid
- the applicant dies before their application is decided

Certificate of application

A certificate of application under the EU Settlement Scheme is issued by the Home Office to confirm that the applicant has submitted a valid application under the scheme. It does not confirm that the person has immigration status in the UK, but it does confirm the temporary protection of their rights in the UK pending the outcome of their application and any valid administrative review or appeal. A certificate of

application will be issued to the applicant on receipt of a valid application by them under the scheme.

Multiple applications

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

Where this is the case, you must take the action set out below depending on the circumstances:

- where 2 or more invalid applications to the scheme are submitted because the required proof of identity and nationality has not yet been provided, you must contact the applicant and give them a reasonable opportunity to provide that proof and to withdraw the other application or applications:
  - if they provide that proof in respect of one application but fail to withdraw the other application / applications, you must reject any invalid application or applications under rule EU10(1) of Appendix EU - the other application must be considered in the normal way
  - if they provide the required proof of identity and nationality but fail to specify which application they would like to proceed with and fail to withdraw the other / others, you must validate their most recent application (where the other requirements of a valid application are met) and reject the other application / applications as invalid under rule EU10(1) of Appendix EU
  - if they do not provide that proof after being given a reasonable opportunity to do so, you must reject all the applications received as invalid under rule EU10(1) of Appendix EU
- where 2 or more late applications to the scheme are submitted on or after 9 August 2023 and have the required evidence of identity and nationality but require assessment of reasonable grounds for the delay in applying, you must first assess the information and evidence provided with both (or all) applications to establish whether you can validate one of the applications:
  - if the combined information and evidence satisfies you the applicant has reasonable grounds for their delay in making their application, you must validate the most recent application and reject the other or others as invalid under rule EU10(1) of Appendix EU
  - if the combined information and evidence is insufficient to satisfy you the applicant has reasonable grounds for their delay in making their application, but the applicant has provided substantive information concerning their reasonable grounds, you must contact the applicant and give them a reasonable opportunity to provide the required evidence of these. If they do so, you must validate the most recent application and reject the other / others as invalid under rule EU10(1) of Appendix EU. If they do not do so, you must reject all the applications as invalid under rule EU10(1) of Appendix EU
  - otherwise, you must reject all the applications as invalid under rule EU10(1) of Appendix EU

- where 2 or more applications to the scheme are made, where one is valid and the other / others invalid, and it is identifiable at the validity consideration stage that the valid application would result in a grant of settled status, or where the valid application is the most recent application (and the invalid application or applications are earlier applications), you must decide the valid application and reject the other application or applications as invalid under rule EU10(1) of Appendix EU - where it is not possible to identify at the validity consideration stage whether an application will result in a grant of settled status, or where an invalid application is the latest application and where the earlier valid application would not result in a grant of settled status or has been made on a different basis under the scheme (for example one of the applications is made as a person with a derivative right to reside and the other is not), you must contact the applicant inviting them to withdraw the invalid application or applications, giving a deadline of 10 working days, after which (if the applicant has not agreed to withdraw) you must reject any invalid application or applications under rule EU10(1) of Appendix EU and the valid application must be considered in the normal way - if the applicant validates the second application, this will then vary the first valid application and you should proceed as per the bullet point below
- where 2 or more applications to the scheme are made, on different days or on the same day, and all are valid but not yet decided, the latest application must be treated as an application to vary the earlier application or applications and only the latest application will be considered, in line with rule EU10(2) of Appendix EU
- where 2 applications are made, on different days or on the same day, and where one is under the scheme and the other under another part of, or outside, the Immigration Rules and both are valid but not yet decided, both applications must be considered – see Variation of applications

Automated conversion from pre-settled to settled status

There may be occasions where an applicant has made a valid application to convert from pre-settled status to settled status, but, before that application is decided, their case is considered for automated conversion to settled status.

Where this is so, the automated consideration must be concluded before any further action is taken on the manual application. If the automated process results in settled status being granted, the manual application must be treated as void. If the automated process does not result in settled status being granted, the manual application must be considered in the normal way.

Further applications

Where a further valid application under the EU Settlement Scheme has been made after an earlier application under it has been decided:

- if the earlier application resulted in refusal, rejection, withdrawal, treatment as void or in any outcome other than a grant of leave under the scheme, then the latest application must be considered in the normal way (including, where the

further application is made after the applicable deadline, whether there are reasonable grounds for a late application: see Making an application: deadline)
- if the earlier application resulted in settled status being granted, the further application must be treated as void
- if the earlier application resulted in pre-settled status being granted, the further application must be considered in the normal way

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

If you grant pre-settled status where the applicant has pre-settled status, then it will vary (replace) the earlier grant of pre-settled status. The date of the first grant of pre-settled status will remain the start date of their pre-settled status.

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Where an EU, other EEA or Swiss citizen, or their family member (including a joining family member or a family member who has retained the right of residence by virtue of a relationship with them), who has extant pre-settled status under the EU Settlement Scheme obtains leave to enter or remain under another part of the Immigration Rules (or outside the rules), that person will retain their pre-settled status alongside the other immigration leave. Only their most recently granted leave will be displayed on their eVisa; they will be able to rely on the manual checking services, such as the Employer Checking Service, to evidence their earlier grant of pre-settled status, should they need to do so.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Alternative evidence of identity and nationality or of entitlement to apply from outside the UK

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

There may also be reasons why an applicant outside the UK cannot provide the required proof of their entitlement to apply from outside the UK in the form of (for an EEA citizen) a valid passport or a valid national identity card, where this contains an interoperable biometric chip; or (for a non-EEA citizen) a biometric residence card, which has not expired by more than 60 months. You may accept alternative evidence of identity and nationality where the applicant (if they are an EEA citizen) cannot obtain or (if they are an EEA or non-EEA citizen) cannot produce the required document due to circumstances beyond their control or due to compelling practical or compassionate reasons.

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

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

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

Circumstances where alternative evidence may be accepted

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

Document unobtainable from national authority

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

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

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

Document exists but cannot be produced

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

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

If the applicant is not the subject of a positive conclusive grounds decision under the National Referral Mechanism but states that the required document is being withheld from them by a third party, such as an employer or a family member, you must discuss this with a senior caseworker and your local safeguarding lead. This also applies if the applicant states that they are a victim of domestic violence or abuse and they are unable to produce the required document as a result. Domestic violence or abuse victims are to be asked to produce supporting evidence of their circumstances from a third party, such as the police or social services.

In both of the scenarios immediately above, and after referring to a senior caseworker and your local safeguarding lead, you must make a decision on whether

to accept alternative evidence of identity and nationality of the applicant (and, where applicable, of the relevant EEA citizen or qualifying British citizen of whom the applicant is, or for the relevant period was, a family member) based on all the information and evidence available, taking into account the sensitivities of the case.

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

Refugee status or humanitarian protection

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

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

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

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

Other reasons document cannot be obtained or produced

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

Those other reasons may arise from the impact of the COVID-19 pandemic or the war in Ukraine. For example, the closure of, or inability to travel to, an embassy or high commission may have prevented an applicant from renewing their passport or national identity card or may have meant they could not finalise an application for a

new document. These may be acceptable reasons to provide alternative evidence of identity and nationality or of entitlement to apply from outside the UK.

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

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

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

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

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

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Other supporting information or evidence

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

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

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

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

Where you have followed this guidance and all other steps to ascertain an applicant's identity and nationality have been exhausted, you may refer to the embassy, consulate or high commission in the UK of the applicant's claimed country of origin seeking confirmation as to any records held about the claimed identity and nationality. You must use the cover letter and proforma available to you to do so, to ensure that the General Data Protection Regulation is followed. You must be satisfied that such an approach would not put the applicant or their family at risk and must consult your senior caseworker in all cases before proceeding.

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

Should the validity requirement at sub-paragraph (b) or (c) of rule EU9 not be met after the applicant's inability to obtain or produce the required document has been considered in accordance with this guidance (including that the applicant has been prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application), the application must be rejected as invalid under rule EU10(1) of Appendix EU.

Irish citizens

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

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Official – sensitive: end of section

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Withdrawing an application

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

Requesting to withdraw an application

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

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

Requesting to withdraw online

The applicant must request to withdraw an application in writing. To do this online, they must use the 'cancel your application service' at www.gov.uk/cancel-visa. The date of withdrawal is the date the request is received by the Home Office, calculated in line with the information set out in 'Date of application: original application'.

Requesting to withdraw by post

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

EU Settlement Scheme
PO BOX 2075
Liverpool
L69 3YG

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

Withdrawn applications

The case of Muhammed Qadeer V The Secretary of State for the Home Department [2015] EWHC 505 (Admin) clarified that the Secretary of State does not have to agree to withdraw an application and may still consider and decide the application even where that might lead to a refusal.

For example, where there is a suspicion that deception has been used by the applicant if they have submitted fraudulent documents in support of their application.

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

Date of application: original application

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

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

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

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

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

Confirmation of withdrawal

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

Travel outside the Common Travel Area

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

Related content

Contents

Related external links
Appendix EU to the Immigration Rules
Qadeer v SSHD

Variation of applications

This section tells you how to deal with variation of an application in accordance with sub-paragraphs (2), (3) and (4) of rule EU10 of Appendix EU. Paragraph 34BB of the Immigration Rules does not apply to applications made under Appendix EU.

Where 2 or more applications to the scheme are made, and all are valid but not yet decided, the latest application must be treated as an application to vary the earlier application / applications and only the latest application will be considered, in line with rule EU10(2) of Appendix EU.

You must check Home Office systems to ensure that any other pending application, other than the latest scheme application, is identified. Where it is, you must contact the relevant casework team to ensure that the other application is also dealt with in accordance with sub-paragraphs (3) and (4) of rule EU10 and this guidance. Generally, the casework team identifying the second application will be responsible for ensuring it, and the first application, are dealt with in accordance with this guidance.

Where an applicant has a valid application pending under the scheme and then makes a subsequent valid application for leave under another part of, or outside, the Immigration Rules (or vice versa), both applications will be considered and then dealt with as follows:

- where one application falls to be refused, this can be done without having to wait for the outcome of the consideration of the other application - otherwise, one application must not be granted before the other application has reached the point of decision
- where both applications fall to be granted, the applicant must be informed in writing that they satisfy the relevant criteria in respect of both applications and asked to confirm in writing within 14 days (or longer where, following consultation with your senior caseworker, you are satisfied there is good reason for this in the particular circumstances of the case) which application they want to be decided and which they want to be treated as withdrawn - if the applicant does not so confirm by then, or contact you by then to advise that they need more time to respond (for example where they wish to seek immigration advice), the latest application will be decided and the other treated as withdrawn

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Making an application: eligibility

Where a valid application has been made to the EU Settlement Scheme (EUSS), this section tells you the requirements for eligibility for indefinite leave which is also referred to for the purposes of the scheme as ‘settled status’, or 5 years’ limited leave which is also referred to as ‘pre-settled status’.

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

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

Where a person granted LTE or LTR under the EU Settlement Scheme as a Joining family member of a relevant sponsor later applies for ILE or ILR and at that stage it is established by the evidence provided or otherwise available to you that they meet the requirements for ILE or ILR as a relevant EEA citizen or family member of a relevant EEA citizen (including that they were resident in the UK by the end of the transition period on 31 December 2020 and maintained the required continuity of residence thereafter), they may be granted ILE or ILR on that basis instead.

EEA citizens

Documented right of permanent residence

An EEA citizen will be eligible for ILE or ILR under the scheme, as a relevant EEA citizen under condition 1 in rule EU11, where, at the date of application, they have a documented right of permanent residence, and since they did, no supervening event has occurred in respect of the applicant.

This means that you are satisfied from the information available to you that the applicant has been issued with either:

- a document certifying permanent residence under regulation 19 of the EEA Regulations
- a residence permit or residence document under the Immigration (European Economic Area) Order 1994 endorsed to show permission to remain in the UK indefinitely

And in addition:

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

- this document has not been revoked, and its renewal has not been refused, under regulation 24 (except where the revocation or refusal occurred because the person had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person's right to reside has not been cancelled under regulation 25

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

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

It also means both that:

- the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations (or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 (as it had effect before it was repealed) or under the EEA Regulations of the Isle of Man) or since they last completed a continuous qualifying period of 5 years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

Indefinite leave to enter or remain held since before the end of the transition period

An EEA citizen will be eligible for ILE or ILR under the scheme, as a relevant EEA citizen under condition 2 in rule EU11, where, at the date of application, there is 'valid evidence of their indefinite leave to enter or remain', as defined in Annex 1 to Appendix EU.

This means either:

- a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007, and known as a biometric residence permit), a valid stamp or endorsement in a passport (whether or not the passport has expired) or other valid document issued by the Home Office, confirming that, at 11pm GMT on 31 December 2020, the applicant had indefinite leave to enter or remain in the UK, which has not since lapsed or been revoked or invalidated
- you are otherwise satisfied from the evidence or information available to you (including from Home Office records) that, at 11pm GMT on 31 December 2020, the applicant had indefinite leave to enter or remain in the UK or the Islands, and this status both:
  - has not since lapsed through absence from the UK and Islands for a period of more than 2 consecutive years
  - has not since been revoked or invalidated

Continuous qualifying period of 5 years

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

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

And where no supervening event has occurred in respect of the applicant, which means both that since completing that 5 year period:

- they have not been absent from the UK and Islands for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
- an exclusion decision
- a deportation order, other than by virtue of the EEA Regulations
- an Islands deportation order
- an Islands exclusion decision

Ceased activity

An EEA citizen will be eligible for ILE or ILR under the scheme, as a relevant EEA citizen under condition 4 in rule EU11, having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, where, at the date of application, they are either:

- were a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or, in the case of a worker, having taken early retirement and immediately before that they had both:
  - been a worker or self-employed person in the UK for at least the preceding 12 months
  - resided in the UK and Islands for a continuous qualifying period of more than 3 years which began before the specified date
- stopped being a worker or self-employed person in the UK owing to permanent incapacity to work and either:
  - had resided in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which began before the specified date
  - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK
- resided in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which began before the specified date, immediately before becoming a worker or self-employed person in an EEA country or Switzerland (see: the countries listed in sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU), while retaining a place of residence in the UK to which they return, as a rule, at least once a week

The conditions as to length of residence and length of employment in the first 2 provisions above do not apply where you are satisfied (including by the required evidence of family relationship) that the relevant EEA citizen is the spouse or civil partner of a British citizen.

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

- they have not been absent from the UK and Islands for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

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

Child under the age of 21

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

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

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

- has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
- is an Irish citizen who, if they had made a valid application under Appendix EU before 1 July 2021, would have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

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

- having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated
- is an Irish citizen who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted indefinite leave to enter or remain under paragraph EU2 of

Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

Continuous qualifying period of less than 5 years

An EEA citizen who, at the date of application, has completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, and who does not qualify under one of the routes to

ILE or ILR for those with a continuous qualifying period of residence in the UK and Islands of less than 5 years, will be eligible for 5 years' limited leave to enter or remain as a relevant EEA citizen under condition 1 in rule EU14.

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

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Eligibility: family members of a relevant EEA citizen

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

To apply under the family member of a relevant European Economic Area (EEA) citizen provisions (save as a dependent relative of a specified relevant person of Northern Ireland), an applicant must have been resident by 11pm GMT on 31 December 2020 on a basis which met the definition of 'family member of a relevant EEA citizen' in Annex 1 to Appendix EU and thereafter not have broken the continuity of their residence.

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

- spouse, where either:
  - the marriage was contracted before the specified date
  - the applicant was the durable partner of the relevant EEA citizen before the specified date (the definition of 'durable partner' in Annex 1 to Appendix EU being met before that date rather than at the date of application) and the partnership remained durable at the specified date
- civil partner, where either:
  - the civil partnership was formed before the specified date
  - the applicant was the durable partner of the relevant EEA citizen before the specified date (the definition of 'durable partner' in Annex 1 to Appendix EU being met before that date rather than at the date of application) and the partnership remained durable at the specified date
- durable partner (unmarried partner whose relationship is akin to marriage or civil partnership, and the applicant holds a relevant document in this capacity, where they rely on residence in the UK in that capacity before the specified date), where both:
  - the partnership was formed and was durable before the specified date
  - the partnership remains durable at the date of application (or did so for the relevant period or immediately before the death of the relevant EEA citizen)
- child under 21 of the EEA citizen or of the spouse or civil partner and the family relationship existed before the specified date
- dependent child over 21 of the EEA citizen or of the spouse or civil partner and the family relationship existed before the specified date
- dependent parent of the EEA citizen or of the spouse or civil partner and the family relationship existed before the specified date
- dependent relative of the EEA citizen or of the spouse or civil partner (in either case) before the specified date, and both:
  - the applicant holds a relevant document in this capacity
  - the dependency (or, as the case may be, their membership of the household or their strict need for personal care on serious health grounds) continues to

exist at the date of application (or did so for the period of residence relied upon)

In addition, where the applicant does not rely on meeting condition 1, 3 or 6 in rule EU11, or on being a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, the family relationship continues to exist at the date of application.

Documented right of permanent residence

A family member will be eligible for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) under the scheme, under condition 1 in rule EU11, as the family member of a relevant EEA citizen (or as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen), where, at the date of application, they have a documented right of permanent residence, and since they did, no supervening event has occurred in respect of the applicant.

This means that you are satisfied from the information available to you that the applicant has been issued with either:

- a document certifying permanent residence under regulation 19 of the EEA Regulations
- a permanent residence card (issued or renewed within the last 10 years) under regulation 19 of the EEA Regulations
- a residence permit or residence document under the Immigration (European Economic Area) Order 1994 endorsed to show permission to remain in the UK indefinitely

And in addition:

- this document or card is not invalid under regulation 19(4)(c)
- this document or card has not been revoked, and its renewal has not been refused, under regulation 24 (except where the revocation or refusal occurred because the person had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person's right to reside has not been cancelled under regulation 25

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

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

Regulations of the Isle of Man, and this has not been revoked, invalidated or cancelled

It also means both that:

- the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations (or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 (as it had effect before it was repealed) or under the EEA Regulations of the Isle of Man) or since they last completed a continuous qualifying period of 5 years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

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

Indefinite leave to enter or remain held since before the end of the transition period

A family member will be eligible for ILE or ILR under the scheme, under condition 2 in rule EU11, as a family member of a relevant EEA citizen (or as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen), where, at the date of application, there is 'valid evidence of their indefinite leave to enter or remain', as defined in Annex 1 to Appendix EU.

This means either:

- a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007), a valid stamp or endorsement in a passport (whether or not the passport has expired) or other valid document issued by the Home Office, confirming that, at 11pm GMT on 31 December 2020, the applicant had

indefinite leave to enter or remain in the UK, which has not since lapsed or been revoked or invalidated
- you are otherwise satisfied from the evidence and information available to you (including from Home Office records) that, at 11pm GMT on 31 December 2020, the applicant had indefinite leave to enter or remain in the UK or the Islands, and this status both:
  - has not since lapsed through absence from the UK and Islands for a period of more than 2 consecutive years
  - has not since been revoked or invalidated

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

Continuous qualifying period of 5 years

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

- you are satisfied, including by the required evidence of family relationship, that the applicant is the family member of a relevant EEA citizen (see assessing family relationship)
- they have completed a continuous qualifying period of residence in the UK and Islands of 5 years which (unless they are the dependent relative of a specified relevant person of Northern Ireland) began before the specified date as such a family member (or as a relevant EEA citizen, as a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, as a person with a derivative right to reside, as a person with a Zambrano right to reside, or as a person who had a derivative or Zambrano right to reside, or in any combination of those categories)
- since completing that 5 year period, they have not been absent from the UK and Islands for a period of more than 5 consecutive years
- since completing that 5 year period, none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

Where the applicant has completed a continuous qualifying period of residence in the UK and Islands of 5 years which (unless they are the dependent relative of a specified relevant person of Northern Ireland) began before the specified date, as the family member of a relevant EEA citizen (or as a family member who has retained the right of residence by virtue of their relationship with a relevant EEA citizen), the family relationship or the period in which they retained a right of residence by virtue of that relationship, may be in the past; it does not need to remain extant at the date of application.

Child under the age of 21

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

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

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

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

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

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

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

2021, would, but for the fact that they are a British citizen, have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

The relevant EEA citizen has ceased activity

A family member will be eligible for ILE or ILR under the scheme – as the family member of a relevant EEA citizen who has ceased activity, under condition 5 in rule EU11 – having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began before the specified date, if, at the date of application, the relevant requirements set out below are met.

Where the date of application is before 1 July 2021, the relevant EEA citizen either:

- has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands), or would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

Where the date of application is on or after 1 July 2021, the relevant EEA citizen either:

- having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated
- having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which

would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

In addition, whatever the date of application:

- you are satisfied, including by the required evidence of family relationship, that the applicant was a family member of the relevant EEA citizen at the point at

which the relevant EEA citizen became a person who has ceased activity (see assessing family relationship)
- the applicant was also resident in the UK and Islands for a continuous qualifying period which (unless they are the dependent relative of a specified relevant person of Northern Ireland) began before the specified date, immediately before the relevant EEA citizen became a person who has ceased activity

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

- the relevant EEA citizen was a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or, in the case of a worker, having taken early retirement; and immediately before that they had both:
  - been a worker or self-employed person in the UK for at least the preceding 12 months
  - resided in the UK and Islands for a continuous qualifying period of more than 3 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date
- the relevant EEA citizen stopped being a worker or self-employed person owing to permanent incapacity to work and either:
  - had resided in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date
  - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK
- the relevant EEA citizen resided in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which, unless they are a specified relevant person of Northern Ireland, began before the specified date, immediately before becoming a worker or self-employed person in an EEA country or Switzerland (see: the countries listed in sub-paragraph (a)(i) of the definition of 'EEA citizen' in Annex 1 to Appendix EU), while retaining a place of residence in the UK to which they return, as a rule, at least once a week

The conditions as to length of residence and of employment in the first and second provisions above do not apply where you are satisfied that (including by the required evidence of family relationship) that the relevant EEA citizen is the spouse or civil partner of a British citizen.

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

- the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
- an exclusion decision
- a deportation order, other than by virtue of the EEA Regulations
- an Islands deportation order
- an Islands exclusion decision

The relevant EEA citizen has died

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

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

- you are satisfied, including by the required evidence of family relationship, that the applicant is a family member of a relevant EEA citizen (see assessing family relationship) and the relevant EEA citizen has died
- the relevant EEA citizen must have been resident in the UK as a worker or self-employed person (within the meaning of the EEA Regulations) at the time of their death
- the relevant EEA citizen must have been resident in the UK and Islands for a continuous qualifying period of at least 2 years which, unless they were a specified relevant person of Northern Ireland, began before the specified date, immediately before dying, or the death must have been the result of an accident at work or an occupational disease
- the applicant must have been resident in the UK with the relevant EEA citizen immediately before their death
- since the death of the relevant EEA citizen, the applicant must not have been absent from the UK and Islands for a period of more than 5 consecutive years
- since the death of the relevant EEA citizen, none of the following events must have occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the

equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
- an exclusion decision
- a deportation order, other than by virtue of the EEA Regulations
- an Islands deportation order
- an Islands exclusion decision

If the applicant does not meet these criteria, you must consider if they have retained a right of residence.

A family member who has retained the right of residence

Where the applicant is a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, they can qualify for ILE or ILR under condition 1 (documented right of permanent residence) or condition 2 (existing evidence of indefinite leave to enter or remain) in rule EU11, as set out above.

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

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

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

- an EEA citizen who was the family member of a relevant EEA citizen and that person died
- a non-EEA citizen who was the family member of a relevant EEA citizen and that person died, and who was resident in the UK as the family member of that relevant EEA citizen for a continuous qualifying period of at least a year which (unless they were the dependent relative of a specified relevant person of Northern Ireland) began before the specified date, immediately before the death of that person

Or that the applicant is either:

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

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

Or that the applicant is:

- an EEA or non-EEA citizen who is the parent with custody of such a child (meaning that the child normally lives with them or does so part of the time, and includes arrangements which have been agreed informally and those which are subject to a court order for determining with whom the child is to live and when)

Or that the following requirements are met:

- the applicant is an EEA or non-EEA citizen who has ceased to be a family member of a relevant EEA citizen on the termination of the marriage or civil partnership of that relevant EEA citizen – and, for these purposes, where, after the initiation of the proceedings for that termination, that relevant EEA citizen ceased to be a relevant EEA citizen, they will be deemed to have remained a relevant EEA citizen until that termination
- the applicant was resident in the UK at the date of the termination of the marriage or civil partnership
- where the applicant is a non-EEA citizen, they meet one of the following:
  - prior to the initiation of the proceedings for the termination of the marriage or civil partnership, the marriage or civil partnership had lasted for at least 3 years and during its duration the parties to the marriage or civil partnership had been resident in the UK for a continuous qualifying period of at least one year which began before the specified date
  - the applicant has custody of a child of the relevant EEA citizen
  - the applicant has the right of access to a child of the relevant EEA citizen, where the child is under the age of 18 years and where a court has ordered that such access must take place in the UK

- the continued right of residence in the UK of the applicant is warranted by particularly difficult circumstances, such as where the applicant or another family member has been a victim of domestic violence or abuse whilst the marriage or civil partnership was subsisting

Or that the applicant both:

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

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

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

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

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

- the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
- an exclusion decision
- a deportation order, other than by virtue of the EEA Regulations
- an Islands deportation order
- an Islands exclusion decision

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

Continuous qualifying period of less than 5 years

A family member of a relevant EEA citizen, or a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, who, at the date of application, has completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which (unless they are the dependent relative of a specified relevant person of Northern Ireland) began before the specified date, and who does not qualify under one of the routes to ILR or ILE for those who have completed such a continuous qualifying period of less than 5 years, will – in the case of a family member of a relevant EEA citizen, where there has been no supervening event in respect of the relevant EEA citizen – be eligible for 5 years' limited leave to enter or limited leave to remain (LTE or LTR), under condition 1 in rule EU14.

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

Relevant EEA citizen's EUSS status

You must, where applicable, check the relevant EEA citizen's Home Office unique application number on the relevant case working system to confirm that they have indefinite leave to enter or remain (settled status) or limited leave to enter or remain (pre-settled status) under the EU Settlement Scheme (EUSS, granted under, as the case may be, rule EU2 or EU3 of Appendix EU, based on their residence in the UK before the end of the transition period at 11pm on 31 December 2020).

Relevant EEA citizen's EUSS status was granted in error

A relevant EEA citizen's EUSS status will only be considered to have been granted in error where they were granted that status in circumstances where the information or evidence shows that they did not meet the relevant requirements for it under Appendix EU.

The following are examples of circumstances where the information or evidence shows that the relevant EEA citizen was granted EUSS status in error:

- the information or evidence shows that they only obtained an EEA nationality after the specified date
- the information or evidence shows that they were not resident in the UK and Islands for a continuous qualifying period which began before the specified date
- they applied as a joining family member of a relevant sponsor but were incorrectly granted status under rule EU2 or EU3 of Appendix EU as a relevant EEA citizen

However, this is not an exhaustive list and every case must be considered in light of its individual circumstances and the evidence provided.

Where a caseworker applied evidential flexibility in granting the relevant EEA citizen EUSS status – that is where they exercised discretion in the person's favour to minimise administrative burdens, by not requiring evidence to be provided where they were already satisfied on the balance of probabilities that the relevant eligibility requirement was met – you must not revisit the decision to apply such flexibility.

If, following the above check of the relevant case working system, you have reason to believe that the relevant EEA citizen's EUSS status was granted in error, and there is no other information available to you now, for example Home Office travel data, to show that they met the relevant requirements, you must first contact the applicant in line with the standard contact process to give them a reasonable opportunity to provide relevant further information or evidence, for example, as to the relevant EEA citizen's nationality or UK residence before the end of the transition period.

Where you are satisfied by the further information or evidence provided by the applicant that the relevant EEA citizen's EUSS status was granted correctly, you must consider the application in line with the rest of this guidance.

Where you are not satisfied by the further information or evidence provided by the applicant that the relevant EEA citizen's EUSS status was granted correctly (or where the applicant fails to respond or provide the information or evidence requested within the relevant timeframe), you must write to the relevant EEA citizen to request the information or evidence required to confirm they meet the definition set out in Appendix EU. You must give the relevant EEA citizen 14 calendar days to provide the relevant further information or evidence.

Where you are satisfied by the further information or evidence provided by the relevant EEA citizen that their EUSS status was granted correctly, you must consider the application in line with the rest of this guidance.

Where you are not satisfied by the further information or evidence provided by the relevant EEA citizen that their EUSS status was granted correctly (or where they fail to respond or provide the information or evidence requested within the relevant

timeframe), you must write to the relevant EEA citizen to inform them that their EUSS status was granted in error and they do not meet the definition set out in Appendix EU and that this means that they cannot sponsor a family member's EUSS application. Where the relevant EEA citizen was granted limited leave to enter or remain under paragraph EU3 of Appendix EU (pre-settled status), you must also inform them that their pre-settled status will not be automatically extended and will expire at the end of its validity.

Where the relevant EEA citizen has been notified that their EUSS status was granted in error, you must refuse the application. You must explain in the decision letter that the application has been refused because the relevant EEA citizen does not meet that definition set out in Appendix EU and was granted EUSS status in error and is therefore unable to sponsor the application.

Where an application is made for an EUSS family permit and the entry clearance officer (ECO) is not satisfied by the further information or evidence provided by the applicant that the relevant EEA citizen's EUSS status was granted correctly (or where the applicant fails to respond or provide the information or evidence requested within the relevant timeframe), they must refer the relevant EEA citizen's case (together with any further information or evidence provided by the applicant) to the relevant in-country case working team (in line with local processes).

Where you are satisfied that the relevant EEA citizen's EUSS status was granted correctly, you must refer the applicant's case back to the ECO for them to resume consideration of the application in line with the EUSS family permit guidance.

Where you are not satisfied that the relevant EEA citizen's EUSS status was granted correctly, you must write to the relevant EEA citizen to request the information or evidence required to confirm they meet the definition set out in Appendix EU. You must give the relevant EEA citizen 14 calendar days to provide the relevant further information or evidence.

Where you are satisfied in light of their response within that timescale that the relevant EEA citizen's EUSS status was granted correctly, you must refer the applicant's case back to the ECO for them to resume consideration of the application in line with the EUSS family permit guidance.

Where, in light of any response from them in that timescale, you are satisfied that the relevant EEA citizen's EUSS status was granted in error, you must write to the relevant EEA citizen accordingly (including to inform them that this means that they cannot sponsor an EUSS family permit application, and, where the relevant EEA citizen was granted pre-settled status, that it will not be automatically extended and will expire at the end of its validity) and inform the ECO of your decision so that they can refuse the EUSS family permit.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Immigration (European Economic Area) Regulations 2016

Eligibility: joining family members of a relevant sponsor

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

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

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

    - the partnership was formed and was durable before the specified date
    - the durable partnership remains durable at the date of application, unless the applicant relies on meeting condition 1 in rule EU11A of Appendix EU (and if they do, the durable partnership remained durable for the relevant period), or condition 3 in rule EU11A (and if they do, the durable partnership remained durable immediately before the death of the relevant sponsor) or on being a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor
- child under 21 of the relevant sponsor or of the spouse or civil partner, where the family relationship or relationships existed before the specified date (unless the child, after that date, was born or was adopted in accordance with a relevant adoption decision or became a child within the meaning of that definition in Annex 1 to Appendix EU on the basis of one of sub-paragraphs (a)(iii) to (a)(xi)) and continue or continues to exist at the date of application (or did so for the period of residence relied upon)
- dependent child over 21 of the relevant sponsor or of the spouse or civil partner, where the family relationship or relationships existed before the specified date (unless the child, after that date, was born or was adopted in accordance with a relevant adoption decision or became a child within the meaning of that definition in Annex 1 to Appendix EU on the basis of one of sub-paragraphs (a)(iii) to (a)(xi)) and continue or continues to exist at the date of application (or did so for the period of residence relied upon)
- dependent parent of the relevant sponsor or of the spouse or civil partner, where the family relationship / relationships existed before the specified date and continue or continues to exist at the date of application (or did so for the period of residence relied upon)

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

- under sub-paragraph (a) (where sub-paragraph (c) or (d) as described below does not apply), they were not resident in the UK and Islands on a basis which met the definition of 'family member of a relevant EEA citizen' in Annex 1 to Appendix EU (where that relevant EEA citizen is their relevant sponsor) at any time before the specified date
- under sub-paragraph (b) (where sub-paragraph (c) or (d) as described below does not apply), they were resident in the UK and Islands before the specified date, and either:
    - one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of 'continuous qualifying period' in Annex 1 to Appendix EU has occurred, and after that event occurred, they were not resident in the UK and Islands again before the specified date
    - the event referred to in sub-paragraph (a) in the definition of 'supervening event' in Annex 1 to Appendix EU has occurred, and after that event occurred, they were not resident in the UK and Islands again before the specified date
    - they are the specified spouse or civil partner of a Swiss citizen, and they do not rely on any period of residence in the UK and Islands before the marriage was contracted or the civil partnership was formed
- under sub-paragraph (c) (where sub-paragraph (d) as described below does not apply), where the person is a child born after the specified date or adopted

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

Relevant sponsor

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

- an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
    - limited leave to enter or remain under paragraph EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed or invalidated (or is being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands)
- an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) either:
    - resident in the UK and Islands for a continuous qualifying period which began before the specified date
    - having been resident in the UK and Islands as described above and if they had made a valid application under Appendix EU before 1 July 2021, would have been granted indefinite leave to enter or remain under paragraph EU2

of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

Where the date of application is on or after 1 July 2021, a relevant sponsor is either:

- an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted either:
  - indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated

    - limited leave to enter or remain under paragraph EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed or invalidated
- an Irish citizen who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- an EEA citizen (in accordance with sub-paragraph (b) of that definition in Annex 1 to Appendix EU) who is a relevant naturalised British citizen, in accordance with sub-paragraphs (a), (c) and (d) of that definition in Annex 1, who, if they had made a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU) who is a relevant person of Northern Ireland in accordance with sub-paragraph (a)(ii) of the definition in Annex 1 to Appendix EU (such as an Irish citizen) and who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
    - has been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated
    - would have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (if had they made a valid application under Appendix EU before 1 July 2021), which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - has been granted limited leave to enter or remain under paragraph EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed or invalidated
    - would have been granted limited leave to enter or remain under paragraph EU3 of Appendix EU (if had they made a valid application under Appendix EU before 1 July 2021), which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- an EEA citizen (in accordance with sub-paragraph (d) of that definition in Annex 1 to Appendix EU) who is a relevant person of Northern Ireland in accordance with sub-paragraph (a)(i) or (a)(iii) of the definition in Annex 1 to Appendix EU (such as a British citizen or a British citizen and an Irish citizen) and who, having been resident in the UK and Islands for a continuous qualifying period which, unless they are a specified relevant person of Northern Ireland, began before the specified date, and if they had made a valid application under

Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- a person exempt from immigration control who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date and if they had made a valid application under Appendix EU before 1 July 2021, would have been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- a frontier worker, in accordance with that definition in Annex 1 to Appendix EU

In addition:

- save for the purposes of condition 3 in rule EU11A and of sub-paragraphs (a) and (b) of the definition of 'family member who has retained the right of residence' in Annex 1 to Appendix EU, the relevant sponsor has not died
- where the date of application by a joining family member of a relevant sponsor is on or after 1 July 2021, it will suffice that the relevant sponsor is or (as the case may be) was resident in the UK and Islands for a continuous qualifying period which, unless they are a specified relevant person of Northern Ireland, began before the specified date where the applicant either:
    - on the basis of events which occurred during the period to which sub-paragraph (a)(ii)(aa) or (a)(iii)(aa) of the definition of 'required date' in Annex 1 to Appendix EU refers, relies on being a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, or has limited leave to enter or remain granted on that basis under rule EU3A
    - relies on meeting condition 3 in rule EU11A
    - has limited leave to enter or remain granted under rule EU3A and would have been eligible for indefinite leave to enter or remain under condition 1, 2 or 3 in rule EU11A, had they made a further valid application under Appendix EU (subsequently to that which led to the grant of that limited leave) before the indefinite or limited leave to enter or remain granted under rule EU2 or EU3 to their relevant sponsor lapsed or was cancelled, curtailed, revoked or invalidated (or, where relevant, would have done so or been so)

Not in the UK as a visitor

Where the application is made within the UK and was decided before 6 October 2021 (the date that relevant changes to Appendix EU made in Statement of Changes in Immigration Rules: HC 617 came into effect), then, to meet the eligibility requirements for indefinite leave to remain (under rule EU11A) or limited leave to

remain (under rule EU14A) as a joining family member of a relevant sponsor, the applicant must not have been in the UK at the date of application as a 'visitor', in accordance with the relevant definition then in Annex 1 to Appendix EU.

This meant that, subject to limited exceptions, the applicant must not have been granted leave under paragraphs 40 to 56Z, 75A to M or 82 to 87 of the Immigration Rules in force before 24 April 2015 or Appendix V on or after 24 April 2015 or Appendix V: Visitor after 9am on 1 December 2020, and was not a person to whom article 4 or 6 of the Immigration (Control of Entry through Republic of Ireland) Order 1972 applied.

For applications decided from 6 October 2021, the requirement not to be in the UK as a visitor was removed from Appendix EU (by virtue of the changes made in Statement of Changes in Immigration Rules: HC 617). This means that applicants are no longer required not to be in the UK as a visitor to qualify for leave under Appendix EU as a joining family member of a relevant sponsor.

The requirement that, in an application decided before 6 October 2021 (the date that relevant changes to Appendix EU made in Statement of Changes in Immigration Rules: HC 617 came into effect), a person applying as a joining family of a relevant sponsor must not have been in the UK at the date of application as a 'visitor', in accordance with the relevant definition then in Annex 1 to Appendix EU, was disapplied, as a temporary concession outside Appendix EU, where the applicant entered the UK as a visitor on or after 1 January 2021.

Continuous qualifying period of 5 years

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

- you are satisfied, including by the required evidence of family relationship, that the applicant is the joining family member of a relevant sponsor (see assessing family relationship)
- they have completed a continuous qualifying period of residence in the UK and Islands of 5 years which began after the specified date as such a joining family member (or as a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, or in any combination of those categories)
- since completing that 5 year period, they have not been absent from the UK and Islands for a period of more than 5 consecutive years
- since completing that 5 year period, none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that

decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
    - an exclusion decision
    - a deportation order, other than by virtue of the EEA Regulations
    - an Islands deportation order
    - an Islands exclusion decision

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

Where the applicant arrived in the UK as a joining family member and at that point had another form of immigration leave or was exempt from immigration control, their continuous qualifying period of residence in the UK as a joining family member (or as a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor) can include the period in the UK in which they held that other form of immigration leave or were exempt from immigration control.

Child under the age of 21

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

Where the date of application is before 1 July 2021, either:

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

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

- they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
  - meets the requirements of sub-paragraph (a) of the definition of 'family member of a relevant EEA citizen' in Annex 1 to Appendix EU, substituting 'relevant sponsor' for each reference in that sub-paragraph to 'relevant EEA citizen'
  - has been or is being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU
- they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
  - meets the requirements of the first sub-paragraph (a), together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii), of the definition of 'joining family member of a relevant sponsor' in Annex 1 to Appendix EU
  - has been or is being granted indefinite leave to enter or remain under paragraph EU2A of Appendix EU

Where the date of application is on or after 1 July 2021, either:

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

before 1 July 2021, would have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

- they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
  - meets the requirements of sub-paragraph (a) of the definition of 'family member of a relevant EEA citizen' in Annex 1 to Appendix EU, substituting 'relevant sponsor' for each reference in that sub-paragraph to 'relevant EEA citizen
  - has been or is being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU
- they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
  - meets the requirements of the first sub-paragraph (a), together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii), of the definition of 'joining family member of a relevant sponsor' in Annex 1 to Appendix EU
  - has been or is being granted indefinite leave to enter or remain under paragraph EU2A of Appendix EU

The relevant sponsor has ceased activity

In an application made after the specified date, an applicant will be eligible for ILE or ILR under the scheme – as the joining family member of a relevant sponsor who has ceased activity, under condition 2 in rule EU11A – having completed a continuous qualifying period of residence in the UK and Islands of less than 5 years which began after the specified date and the relevant requirements below are met.

Where the date of application is before 1 July 2021, the relevant sponsor is either:

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

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

Where the date of application is on or after 1 July 2021, the relevant sponsor is either:

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

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

In addition, whatever the date of application, both:

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

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

- the relevant sponsor was a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or, in the case of a worker, having taken early retirement; and immediately before that they had both:
    - been a worker or self-employed person in the UK for at least the preceding 12 months
    - resided in the UK and Islands for a continuous qualifying period of more than 3 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date
- the relevant sponsor stopped being a worker or self-employed person owing to permanent incapacity to work and either:

    - had resided in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date
    - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK
- the relevant sponsor resided in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which, unless they are a specified relevant person of Northern Ireland, began before the specified date, immediately before becoming a worker or self-employed person in an EEA country or Switzerland (see: the countries listed in sub-paragraph (a)(i) of the definition of 'EEA citizen' in Annex 1 to Appendix EU), while retaining a place of residence in the UK to which they return, as a rule, at least once a week

The conditions as to length of residence and of employment in the first and second provisions above do not apply where you are satisfied that (including by the required evidence of family relationship) that the relevant sponsor is the spouse or civil partner of a British citizen.

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

- the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
    - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
    - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
    - an exclusion decision
    - a deportation order, other than by virtue of the EEA Regulations
    - an Islands deportation order
    - an Islands exclusion decision

The relevant sponsor has died

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

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

- you are satisfied, including by the required evidence of family relationship, that the applicant is a joining family member of a relevant sponsor (see assessing family relationship) and the relevant sponsor has died
- the relevant sponsor must have been resident in the UK as a worker or self-employed person (within the meaning of the EEA Regulations) at the time of their death
- the relevant sponsor must have been resident in the UK and Islands for a continuous qualifying period of at least 2 years which, unless they were a specified relevant person of Northern Ireland, began before the specified date, immediately before dying, or the death must have been the result of an accident at work or an occupational disease
- the applicant must have been resident in the UK with the relevant sponsor after the specified date and immediately before their death
- since the death of the relevant sponsor, the applicant must not have been absent from the UK and Islands for a period of more than 5 consecutive years
- since the death of the relevant sponsor, none of the following events must have occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

If the applicant does not meet these criteria, you must consider if they have retained a right of residence.

A family member who has retained the right of residence

Where the applicant is a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, they will be eligible for ILE or ILR, under condition 1 in rule EU11A, on the basis of having completed a continuous qualifying period of residence in the UK and Islands of 5 years which began after the specified date, as such a family member where the criteria in this section are met (or, prior to that, as a joining family member of a relevant sponsor, or in any combination of those categories).

You must also be satisfied that since satisfying those criteria, the ‘required continuity of residence’ has been maintained by the applicant. This means that, where the applicant has not completed a continuous qualifying period of 5 years (and does not have valid evidence of their indefinite leave to enter or remain, and has not acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 (as it had effect before it

was repealed) or under the Immigration (European Economic Area) Regulations of the Isle of Man), then, since the point at which (where they do so) they began to rely on being in the UK and Islands as a family member who has retained the right of residence and while they continued to do so, one of the events referred to in sub-paragraph (b)(i) or (b)(ii) in the definition of 'continuous qualifying period' in Annex 1 to Appendix EU has not occurred.

Where the date of application by a joining family member of a relevant sponsor is on or after 1 July 2021, it will suffice that the relevant sponsor is or (as the case may be) was resident in the UK and Islands for a continuous qualifying period which began before the specified date where the applicant – on the basis of events which occurred during the period to which sub-paragraph (a)(ii)(aa) or (a)(iii)(aa) of the definition of 'required date' in Annex 1 to Appendix EU refers – relies on being a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, or has limited leave to enter or remain granted on that basis under rule EU3A.

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

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

Or that the applicant is either:

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

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

Or that the following requirements are met:

- the applicant is an EEA or non-EEA citizen who has ceased to be a joining family member of a relevant sponsor on the termination of the marriage or civil

partnership of that relevant sponsor – and, for these purposes, where, after the initiation of the proceedings for that termination, that relevant sponsor ceased to be a relevant sponsor, they will be deemed to have remained a relevant sponsor until that termination

- the applicant was resident in the UK at the date of the termination of the marriage or civil partnership
- where the applicant is a non-EEA citizen, they meet one of the following:
  - prior to the initiation of the proceedings for the termination of the marriage or civil partnership, the marriage or civil partnership had lasted for at least 3 years and during its duration the parties to the marriage or civil partnership had been resident in the UK for a continuous qualifying period of at least one year
  - the applicant has custody of a child of the relevant sponsor
  - the applicant has the right of access to a child of the relevant sponsor, where the child is under the age of 18 years and where a court has ordered that such access must take place in the UK
  - the continued right of residence in the UK of the applicant is warranted by particularly difficult circumstances, such as where the applicant or another family member has been a victim of domestic violence or abuse whilst the marriage or civil partnership was subsisting

Or that the applicant both:

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

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

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

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

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

- the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

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

Continuous qualifying period of less than 5 years

Where the application is made within the UK, and in an application made after the specified date, a joining family member of a relevant sponsor, or a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, will – in the case of a joining family member of a relevant sponsor, where there has been no supervening event in respect of the relevant sponsor – be eligible for 5 years' limited leave to remain (LTR) under the condition in rule EU14A if they are not eligible for ILR under rule EU11A solely because, at the date of application, they have completed a continuous qualifying period of residence in the UK and Islands, which began after the specified date, of less than 5 years.

Where the application is made outside the UK, and in an application made after the specified date, a joining family member of a relevant sponsor, or a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor, who, at the date of application, is not eligible for ILE under rule EU11A, will – in the case of a joining family member of a relevant sponsor, where there has been no supervening event in respect of the relevant sponsor – be eligible for 5 years' limited leave to enter (LTE) under the condition in rule EU14A.

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

Relevant sponsor's EUSS status

You must, where applicable, check the relevant sponsor's Home Office unique application number on the relevant case working system to confirm that they have indefinite leave to enter or remain (settled status) or limited leave to enter or remain (pre-settled status) under the EU Settlement Scheme (EUSS, granted under, as the case may be, rule EU2 or EU3 of Appendix EU, based on residence in the UK before the end of the transition period at 11pm on 31 December 2020).

Relevant sponsor's EUSS status was granted in error

A relevant sponsor's EUSS status will only be considered to have been granted in error where they were granted that status in circumstances where the information or evidence shows that they did not meet the relevant requirements for it under Appendix EU.

The following are examples of circumstances where the information or evidence shows that the relevant sponsor was granted EUSS status in error:

- the information or evidence shows that they only obtained an EEA nationality after the specified date
- the information or evidence shows that they were not resident in the UK and Islands for a continuous qualifying period which began before the specified date
- they applied as a joining family member of a relevant sponsor but were incorrectly granted status under rule EU2 or EU3 of Appendix EU as a relevant EEA citizen

However, this is not an exhaustive list and every case must be considered in light of its individual circumstances and the evidence provided.

Where a caseworker applied evidential flexibility in granting the relevant sponsor EUSS status – that is where they exercised discretion in the person's favour to minimise administrative burdens, by not requiring evidence to be provided where they were already satisfied on the balance of probabilities that the relevant eligibility requirement was met – you must not revisit the decision to apply such flexibility.

If, following the above check of the relevant case working system, you have reason to believe that the relevant sponsor's EUSS status was granted in error, and there is no other information available to you now, for example Home Office travel data, to show that they met the relevant requirements, you must first contact the applicant in line with the standard contact process to give them a reasonable opportunity to provide relevant further information or evidence, for example, as to the relevant sponsor's nationality or UK residence before the end of the transition period.

Where you are satisfied by the further information or evidence provided by the applicant that the relevant sponsor's EUSS status was granted correctly, you must consider the application in line with the rest of this guidance.

Where you are not satisfied by the further information or evidence provided by the applicant that the relevant sponsor's EUSS status was granted correctly (or where the applicant fails to respond or provide the information or evidence requested within the relevant timeframe), you must write to the relevant sponsor to request the information or evidence required to confirm that they meet the definition set out in Appendix EU. You must give the relevant sponsor 14 calendar days to provide the relevant further information or evidence.

Where you are satisfied by the further information or evidence provided by the relevant sponsor that their EUSS status was granted correctly, you must consider the application in line with the rest of this guidance.

Where you are not satisfied by the further information or evidence provided by the relevant sponsor that their EUSS status was granted correctly (or where they fail to respond or provide the information or evidence requested within the relevant timeframe), you must write to the relevant sponsor to inform them that their EUSS status was granted in error and they do not meet the definition set out in Appendix EU and that this means that they cannot sponsor a family member's EUSS application. Where the relevant sponsor was granted limited leave to enter or remain under paragraph EU3 of Appendix EU (pre-settled status), you must also inform them that their pre-settled status will not be automatically extended and will expire at the end of its validity.

Where the relevant sponsor has been notified that their EUSS status was granted in error, you must refuse the application. You must explain in the decision letter that the application has been refused because the relevant sponsor does not meet that definition set out in Appendix EU and was granted in error and is therefore unable to sponsor the application.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Assessing family relationship

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

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

Otherwise, the following family members of a relevant EEA citizen (or qualifying British citizen, under rules EU12 and EU14 of Appendix EU, or relevant sponsor under rules EU11A and EU14A) will be eligible to apply for status under the scheme on the basis of their relationship to that relevant EEA citizen (or qualifying British citizen or relevant sponsor). The following detailed criteria apply in respect of each of these categories of family member at the date the person applies under the scheme.

Spouse

The applicant is (or for the relevant period was) party to a marriage with the relevant EEA citizen (or qualifying British citizen or relevant sponsor) and the marriage is recognised under the law of England and Wales, Scotland or Northern Ireland or of the Islands; and it is (or for the relevant period was) not a marriage of convenience; and neither spouse has (or for the relevant period had) another spouse, a civil partner or a durable partner with immigration status in the UK or the Islands based on that person's relationship with that spouse.

Where the applicant does not already hold a permanent residence document, a spouse must provide evidence of the family relationship for the relevant period, namely a relevant document as the spouse of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or a valid document of record of a marriage recognised under the law of England and Wales, Scotland or Northern Ireland or of the Islands.

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

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

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

Civil partner

The applicant is (or for the relevant period was) in a valid civil partnership (which exists or existed under or by virtue of the Civil Partnership Act 2004 or under any equivalent legislation in the Islands) or in a relationship registered overseas (entitled to be treated as a civil partnership under that act or under any equivalent legislation in the Islands) with the relevant EEA citizen (or qualifying British citizen or relevant sponsor); it is (or for the relevant period was) not a civil partnership of convenience; and neither civil partner has (or for the relevant period had) another civil partner, a spouse or a durable partner with immigration status in the UK or the Islands based on that person's relationship with that civil partner.

Where the applicant does not already hold a permanent residence document, a civil partner must provide evidence of the family relationship for the relevant period, namely a relevant document as the civil partner of the relevant EEA citizen (or qualifying British citizen or relevant sponsor); a valid civil partnership certificate recognised under the law of England and Wales, Scotland or Northern Ireland or under any equivalent legislation in the Islands; or the valid overseas registration document for a relationship which is entitled to be treated as a civil partnership under the Civil Partnership Act 2004 or under any equivalent legislation in the Islands.

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

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

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

Specified spouse or civil partner of a Swiss citizen

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

Durable partner

The applicant is (or for the relevant period was) in a durable relationship with the relevant EEA citizen (or qualifying British citizen or relevant sponsor), with the couple having lived together in a relationship akin to a marriage or civil partnership for 2 years or more, unless there is other significant evidence of the durable relationship.

The reference to the couple having lived together in a relationship akin to a marriage or civil partnership for at least 2 years is a rule of thumb, not a requirement. In circumstances where the couple have not lived together in a relationship akin to a marriage or civil partnership for at least for 2 years, you must consider whether there is other significant evidence of the durable relationship.

Other significant evidence of the durable relationship may include for example evidence of joint responsibility for a child (a birth certificate or a custody agreement showing they are cohabiting and sharing parental responsibility), evidence of shared financial responsibilities or business ventures, or evidence of regular communication and visits while living apart alongside definite plans concerning the practicalities of living together in the UK.

For a relationship to be akin to a marriage or civil partnership the couple must usually have lived together as a couple (not just as friends) and shown an ongoing commitment to one another. However, in some circumstances there may be evidence of a durable relationship akin to a marriage or civil partnership where the couple have not, or currently do not, live together.

An applicant can show cohabitation by evidence of shared living arrangements, such as mortgage agreements, tenancy arrangements or utility bills which show both partners living at the same address over the same period of time. Such evidence does not need to be in both names if it covers the same time period and the same address.

A relationship can still be recognised as meeting the requirement for a durable relationship where, for example, there is a good reason the partners were or are living apart which is still consistent with them having a relationship akin to a marriage or civil partnership. For example, they may have lived apart or currently do so because one party was or is studying or working elsewhere. In such circumstances you will need to be satisfied the relationship is durable even though they were or are living apart. For example, there may be evidence that although they are currently living apart, they have lived together in a durable relationship in the past and intend to do so again in the future.

However, in some cases the couple may not have lived together and you will need to be satisfied the relationship is akin to a marriage or civil partnership. In some countries, religious or cultural norms may prevent unmarried partners living together and you will need to assess whether the relationship is similar to a marriage or civil partnership, in that it is more than a boyfriend / girlfriend type relationship. Instead of evidence of cohabitation, you will want to see other evidence of a durable relationship such as evidence of regular communication, visits, holidays, events attended, financial support, joint care of any children the partners have together or any other evidence showing a durable relationship.

Where a same-sex couple have entered into their relationship in the UK or in a country where same-sex relationships are accepted, they will normally be expected to have cohabited unless there is a good reason they live apart. But in some countries same-sex relationships might not be recognised or accepted by the society, which in turn might make prevent same-sex partners living together. Where an applicant says this is the case, you must check the relevant Country Policy and Information Notes, to confirm this is consistent with the information available.

Applicants are not encouraged to provide photographic evidence or evidence of interaction over email, WhatsApp or other social media as they can be falsified and are difficult to verify. However, this does not mean that such evidence has no weight at all. You must consider all the information and evidence provided by the applicant in the round.

Where the couple have not lived together in a relationship akin to a marriage or civil partnership for at least for 2 years, you must consider in each case whether there is other significant evidence of a durable relationship, based on all the information and evidence provided by the applicant.

The durable partnership must not be (or have been) one of convenience; and neither durable partner has (or for the relevant period had) another durable partner, a spouse or a civil partner with immigration status in the UK or the Islands based on that person's relationship with that durable partner.

Resident in the UK by 11pm on 31 December 2020

Where the applicant relies on being resident in the UK by 11pm on 31 December 2020 as the durable partner of the relevant EEA citizen (or qualifying British citizen) and does not hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document as the durable partner of the relevant EEA citizen (or qualifying British citizen) for the period of residence relied upon, and evidence which satisfies you that the durable partnership remains durable at the date of application (or did so for the period of residence relied upon) - this evidence might, for example, take the form of:
  - evidence of cohabitation (such as bank statements or utility bills in joint names at the same address, residential tenancy or rental agreements or mortgage statements, official correspondence which links them at the same address)

- evidence of joint finances, business ventures or commitments (such as tax returns, business contracts, investments)

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

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

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

Joining on or after 1 January 2021

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

Otherwise, the applicant must either:

- not have been resident in the UK and Islands in any capacity before the specified date
- not have been resident in the UK and Islands as the durable partner of the relevant EEA citizen (where that relevant EEA citizen is their relevant sponsor) on a basis which met the entry for ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU (or as the durable partner of the qualifying British citizen), at (in either case) any time before the specified date, unless (in the former case) the reason why they were not so resident is that they did not hold a relevant document as the durable partner of that relevant EEA citizen for that period and they otherwise had a lawful basis of stay in the UK and Islands (for example as a student) for that period – this means that a durable partner who did not hold a relevant document as the durable partner of a relevant EEA citizen for a period of residence in the UK and Islands before the specified date, and who did not otherwise have a lawful basis of stay in the UK and Islands for that period, cannot qualify as a joining family member on this basis
- have been resident in the UK and Islands before the specified date, but their continuous qualifying period was interrupted by one of the following events,

after which they were not resident in the UK and Islands again before the specified date, either:
    - absence or absences from the UK and Islands which exceeded a total of 6 months in any 12-month period, unless the absence absences fell within one or more of the specified exceptions
    - the applicant served a sentence of imprisonment of any length in the UK and Islands
- have been resident in the UK and Islands before the specified date, and the applicant has then been absent from the UK and Islands for a period of more than 5 consecutive years (at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 (as it had effect before it was repealed) or under the Immigration (European Economic Area) Regulations of the Isle of Man, or since they last completed a continuous qualifying period of 5 years) and, after that, they were not resident in the UK and Islands again before the specified date

When considering whether a person with another lawful basis of stay in the UK and Islands before the specified date was the durable partner of a relevant EEA citizen before the specified date, only the period for which the person had another lawful basis of stay in the UK and Islands before that date can be considered for the purposes of assessing whether the partnership was durable before that date.

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

The effect of the above provisions is that, where, at the specified date, a person was continuously resident in the UK and Islands as the durable partner of a relevant EEA citizen (where that relevant EEA citizen is their relevant sponsor) and did not hold a relevant document as that durable partner, they must (unless they otherwise had a lawful basis of stay in the UK and Islands for that period, for example as a student) break their continuity of residence in the UK and Islands before they can apply as a joining family member and the durable partner of the relevant sponsor. They can then rely on the evidence referred to in the previous paragraph. In such a case, the person's continuous qualifying period as a joining family member of a relevant sponsor can only have commenced on or after 1 January 2021.

Example

A is a non-EEA citizen who formed a partnership relationship with B, an EEA citizen resident in the UK, in September 2018. A was subsequently granted 30 months' leave to remain in the UK on 1 February 2019 under Appendix FM to the Immigration Rules. Before that, A had been in the UK for several years without a lawful basis of stay. 1 February 2019 will therefore be the point from which you can assess whether,

in respect of A's application to the scheme as the family member of a relevant EEA citizen, A's partnership relationship with B was durable before the specified date.

Civil partnership, durable partnership or marriage of convenience

A civil partnership, durable partnership or marriage of convenience is defined as a civil partnership, durable partnership or marriage entered into as a means to circumvent either:

- any criterion the party would have to meet to enjoy a right to enter or reside in the UK under the EEA Regulations
- any other provision of UK immigration law or any requirement of the Immigration Rules
- any criterion the party would otherwise have to meet to enjoy a right to enter or reside in the UK under EU law
- any criterion the party would otherwise have to meet to enjoy a right to enter or reside in the Islands under the Islands law

Child under the age of 21

Where they are under the age of 21, the applicant must be either:

- the direct descendant under the age of 21 (or who has turned 21 since the specified date) of the relevant EEA citizen or of their spouse or civil partner, which includes a grandchild or great-grandchild
- the direct descendant under the age of 21 of a qualifying British citizen or relevant sponsor, or of their spouse or civil partner, which includes a grandchild or great-grandchild

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

- an adopted child (adopted in accordance with a 'relevant adoption decision' as defined in Annex 1 to Appendix EU) of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child born through surrogacy (where recognised in UK law or Islands law) for the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom a special guardianship order (within the meaning of section 14A(1) of the Children Act 1989) is in force appointing as their special guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom an order has been made under section 5 of the Children Act 1989 appointing as their guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child subject to a permanence order made under section 80 of the Adoption and Children (Scotland) Act 2007 vesting parental responsibilities and parental

rights in a person who is the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner

- a child who has a guardian appointed under section 7 of the Children (Scotland) Act 1995, or who is living with a person pursuant to an order made under section 11 of that act and that guardian or other person is the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom an order has been made under Article 159 of the Children (Northern Ireland) Order 1995, or in respect of whom an appointment has been made under Article 160 of that Order appointing as their guardian a person who is the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child who has a guardian appointed under section 12 or 14 of the Children (Guernsey and Alderney) Law 2008 or section 12 or 13 of the Children (Sark) Law 2016, or who is living in the care of a person pursuant to an order made under section 14 of the 2008 Law or section 13 of the 2016 Law, and the guardian or other person is the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom an order under Article 7 of the Children (Jersey) Law 2002 is in force appointing as their guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom a special guardianship order (within the meaning of section 17A of the Children and Young Persons Act 2001 of Tynwald) has been made appointing as their special guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner
- a child in respect of whom an order has been made under section 6 or 7 of the Children and Young Persons Act 2001 of Tynwald appointing as their guardian the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or their spouse or civil partner

It does not include a child cared for by the EEA citizen (or the qualifying British citizen or relevant sponsor) or by their spouse or civil partner solely by virtue of a formal or informal fostering arrangement, but this does not prevent an application being made by or on behalf of a 'looked after' child whom a local authority has placed in foster care.

'Looked after' in this context means the care comes within the meaning of section 22(1) of the Children Act 1989, section 17(6) of the Children (Scotland) Act 1995, section 74(1) of the Social Services and Well-being (Wales) Act 2014 or article 25(1) of the Children (Northern Ireland) Order 1995.

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

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

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate or certificates or other documents which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner

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

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

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

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

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

Child aged 21 or over

Where they are aged 21 or over, the applicant must be the direct descendant of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner, and this includes a grandchild or great-grandchild, and (unless the applicant (i) is the direct descendant of the relevant EEA citizen, or of their spouse or civil partner, who has turned 21 since the specified date or (ii) was previously granted limited leave to enter or remain under paragraph EU3 or EU3A of Appendix EU, or its equivalent in the Islands, as a child under the age of 21) the applicant must be dependent on either:

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

'Dependent' means that, as demonstrated by relevant financial, medical or other documentary evidence:

- having regard to their financial and social conditions, or health, the applicant cannot, or for the relevant period could not, meet their essential living needs (in whole or in part) without the financial or other material support of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of the spouse or civil partner
- such support is, or was, being provided to the applicant by the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or by the spouse or civil partner
- there is no need to determine the reasons for that dependence or for the recourse to that support

Family relationship

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate or certificates or other documents which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner

Where such an applicant is applying on the basis that they are the child aged 21 or over of the spouse or civil partner of a relevant EEA citizen (or of a qualifying British

citizen or of a relevant sponsor), you must also be satisfied that the marriage or civil partnership between the spouse or civil partner and the relevant EEA citizen (or the qualifying British citizen or the relevant sponsor) continues to exist (or did so for the period of residence relied upon).

In the case of an adopted or surrogate child you must discuss the case with your senior caseworker who may refer to the EEA Citizens' Rights & Hong Kong Unit for further advice.

Dependency

Where the applicant (i) is not the direct descendant of the relevant EEA citizen, or of their spouse or civil partner, who has turned 21 since the specified date or (ii) was not previously granted limited leave to enter or remain under paragraph EU3 or EU3A of Appendix EU, or its equivalent in the Islands, as a child under the age of 21, they must also provide evidence which satisfies you that the applicant is (or for the relevant period or at the relevant time was) dependent on the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or on the spouse or civil partner.

This evidence might take the form of for example:

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

Where the applicant was resident in the UK before the specified date, and was in paid employment or self-employment before they turned 21 and remained so, having turned 21, through to the date of application (or the specified date where this was earlier), their right to reside as the dependent child of the relevant EEA citizen (or of that person's spouse or civil partner) is not lost by virtue of having exercised their right to work in the UK.

Likewise, where the applicant was resident in the UK before the specified date, and was dependent on the relevant EEA citizen (or on that person's spouse or civil partner) when they turned 21 and then took up paid employment or self-employment which they retained through to the date of application (or the specified date where this was earlier), their right to reside as the dependent child of the relevant EEA citizen (or of that person's spouse or civil partner) is not lost by virtue of having exercised their right to work.

Where, in either case, the paid employment or self-employment ceased before the date of application (or before the specified date where this was earlier), then, where the applicant has not, by the date of application, completed a 5 year continuous qualifying period in which the relevant requirements were met, they are required to show that they were dependent on the relevant EEA citizen (or on that person's

spouse or civil partner) between the date the employment or self-employment ended and the date of application (or the specified date where this was earlier).

This reflects the Court of Appeal judgment in R (Ali) v Secretary of State for the Home Department [2024] EWCA Civ 1546, which found that, where they were resident in the UK before the specified date, the right to reside of a dependent child aged over 21 is not lost where they exercise their right to work in the UK. The judgment does not apply to those applying to the EU Settlement Scheme as a joining family member or as an extended family member dependent relative.

Example 1

In September 2017, aged 17, A, a non-EEA citizen child of an EEA citizen working in the UK and their non-EEA citizen spouse, arrived in the UK and started living with his parents while he attended college here. In July 2020, aged 20, A started and remained in full-time employment in the UK. In September 2020, A moved into his own rented accommodation and stopped receiving financial support from his parents. In December 2020, A turned 21 and then applied to the EU Settlement Scheme as the dependent child aged over 21 of his parents. A was not required to show that he was dependent on his parents before he turned 21 and by then he had exercised his right to work in the UK by starting in full-time employment here. A therefore remained eligible for the scheme as a dependent child aged over 21 and was granted pre-settled status on that basis.

Example 2

In September 2017, aged 17, B, a non-EEA citizen child of an EEA citizen working in the UK and their non-EEA citizen spouse, arrived in the UK and started living with his parents while he attended college here. In July 2020, aged 20, B left college, got married, moved in with his spouse (who was and has remained in full-time employment in the UK) in their own rented accommodation, and stopped receiving any financial support from his parents. In September 2020, B turned 21 and, in November 2020, B started and remained in full-time employment in the UK. In December 2020, B applied to the EU Settlement Scheme as the dependent child aged over 21 of his parents. B was not required to show that he was dependent on his parents before he turned 21, but by then he had ceased to be dependent on them as he was wholly supported by his spouse who was and remained in full-time employment. B did not exercise his right to work in the UK until after he had turned 21 and by then had already ceased to be dependent on his parents. B therefore did not remain eligible for the scheme as a dependent child aged over 21 and his application was refused.

Example 3

In September 2016, aged 17, C, a non-EEA citizen child of an EEA citizen working in the UK and their non-EEA citizen spouse, arrived in the UK and started living with his parents while he attended school here. In October 2017, aged 18, C started university whilst he continued to live with his parents and they continued to support him financially. C turned 21 before completing his degree in June 2020 and he took

up full-time employment in July 2020. C also moved into rented accommodation with a friend in July 2020 and stopped receiving any financial support from his parents. His employment ended in November 2020. In June 2021, C applied to the EU Settlement Scheme as the dependent child aged over 21 of his parents. C was not required to show that he was dependent on his parents before he turned 21, he was dependent on his parents when he turned 21 and he did not lose his status as a dependant because he exercised his right to work in the UK by taking up full-time employment in July 2020. However, as C had not, by the date of application, completed a 5 year continuous qualifying period in which the relevant requirements were met, he needed to show that he was dependent on his parents between the date his employment ended in November 2020 and the specified date. C was able to provide evidence that he received financial support from them during that period and was granted pre-settled status.

Dependent parent

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

Dependency

There is no requirement as to dependency where either:

- the applicant was previously granted limited leave to enter or remain under paragraph EU3 or EU3A of Appendix EU as a dependent parent, and that leave has not lapsed or been cancelled, curtailed or invalidated
- the spouse, civil partner or durable partner of the applicant (and with whom they reside) has been granted indefinite leave to enter or remain or limited leave to enter or remain under paragraph EU2, EU2A, EU3 or EU3A of Appendix EU as a dependent parent of the relevant EEA citizen (or of the qualifying British citizen or of the relevant sponsor) or of their spouse or civil partner, and that indefinite or limited leave has not lapsed or been cancelled, curtailed, revoked or invalidated

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

Otherwise, the applicant must be dependent on:

- the relevant EEA citizen or the qualifying British citizen (or on their spouse or civil partner) at the date of application (or, where the date of application is after the specified date, at the specified date) and:
  - where the relevant EEA citizen (or qualifying British citizen) is over the age of 18 at the date of application (or, where the date of application is after the

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

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

'Dependent' means that, as demonstrated by relevant financial, medical or other documentary evidence:

- having regard to their financial and social conditions, or health, the applicant cannot, or for the relevant period could not, meet their essential living needs (in whole or in part) without the financial or other material support of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of their spouse or civil partner
- such support is or was, being provided by the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or by their spouse or civil partner
- there is no need to determine the reasons for that dependence or for the recourse to that support

Evidence of dependency might take the form of for example:

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

Where the applicant was resident in the UK before the specified date, and is in paid employment or self-employment at the date of application (or the specified date where this was earlier), their right to reside as a dependent parent of the relevant EEA citizen (or of that person's spouse or civil partner) is not lost by virtue of having exercised their right to work in the UK. This reflects the Court of Appeal judgment in R (Ali) v Secretary of State for the Home Department [2024] EWCA Civ 1546, which found that, where they were resident in the UK before the specified date, the right to reside of a dependent parent is not lost where they exercise their right to work in the UK. The judgment does not apply to those applying to the EU Settlement Scheme as a joining family member or extended family member dependent relative.

Example 1

In September 2017, A, a non-EEA citizen dependent parent of a non-EEA citizen spouse living in the UK with her EEA citizen spouse who is working in the UK, arrived in the UK (from the non-EEA country in which A had been living and, unable to work for health reasons, had been receiving their financial support in meeting his essential living needs) and started living with his daughter and her husband. In September 2020, his health having improved significantly, A started and remained in full-time employment in the UK and, in October 2020, A moved into his own rented accommodation and stopped receiving financial support from his daughter and her husband. In December 2020, A applied to the EU Settlement Scheme as the dependent parent of his non-EEA citizen daughter and her EEA citizen spouse. As long as A remained dependent on the EEA citizen or his daughter at the point, he took up employment and continued to be employed at the date of application, he did not lose his status as dependent on them. A therefore remained eligible for the scheme as a dependent parent and was granted pre-settled status on that basis.

Family relationship

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate or certificates or other documents which you are satisfied proves that the applicant is the direct relative in the ascending line of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or of the spouse or civil partner

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

Dependent relative

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

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

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

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

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

Where the applicant applies for a relevant document (as described in sub-paragraph (a)(i)(aa) or (a)(ii) of that definition in Annex 1 to Appendix EU) as the dependent relative of their sponsoring person before the specified date and their relevant document is issued on that basis after the specified date (or where the person relies as their relevant document, as described in sub-paragraph (a)(iv) of that definition in Annex 1 to Appendix EU, on an EU Settlement Scheme Family Permit granted to them under Appendix EU (Family Permit) as a 'dependent relative of a specified relevant person of Northern Ireland', as defined in Annex 1 to that Appendix), they are deemed to have held the relevant document since immediately before the specified date.

Their 'sponsoring person' means:

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

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

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

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

including legal and financial responsibilities, for that person by the relevant EEA citizen (or by the qualifying British citizen)

You may rely on the relevant document issued to the applicant on the basis that they are the dependent relative of their sponsoring person as evidence that these requirements have been met. Where the applicant does not hold a permanent residence document, they will also need to provide evidence which satisfies you that the relationship continues to subsist (or did so for the period of residence relied upon) – the circumstances must be considered on a case by case basis.

Family members who hold pre-settled status based on dependency

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

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

Other evidence

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

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

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

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

- in the case of a relevant EEA citizen (who is not a relevant naturalised British citizen, a dual British and EEA citizen: McCarthy cases or relied on by the

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

- in the case of a relevant EEA citizen (who is not a relevant naturalised British citizen, a dual British and EEA citizen: McCarthy cases or relied on by the applicant as being a relevant person of Northern Ireland), or in the case of a relevant sponsor (who is not a relevant naturalised British citizen or relied on by the applicant as being a relevant person of Northern Ireland), their valid national identity card or confirmation that they have been or are being granted indefinite or limited leave to enter or remain under (as the case may be) paragraph EU2 or EU3 of Appendix EU
- in the case of a relevant EEA citizen who is a relevant naturalised British citizen or a dual British and EEA citizen: McCarthy cases, or of a relevant sponsor who is a relevant naturalised British citizen, their valid passport or valid national identity card as an EEA citizen, and information or evidence which is provided by the applicant, or is otherwise available to you, which satisfies you that the person is a British citizen
- in the case of a relevant EEA citizen (or relevant sponsor) who is relied on by the applicant as being a relevant person of Northern Ireland either:
  - (where they are a British citizen) information or evidence which is provided by the applicant, or is otherwise available to you, which satisfies you that the person is a British citizen
  - (where the person is an Irish citizen) their valid passport or their national identity card as an Irish citizen, or confirmation that they have been or are being granted indefinite or limited leave to enter or remain under (as the case may be) paragraph EU2 or EU3 of Appendix EU
  - (where they are a British citizen and an Irish citizen, and are not relied on by the applicant as being a specified relevant person of Northern Ireland) the evidence required by either of the preceding 2 bullet points

In each case, the applicant must also provide the 'required evidence of being a relevant person of Northern Ireland' in respect of the person: see Family members of the people of Northern Ireland.

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

You can agree to accept alternative evidence of the identity and nationality of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or to compelling practical or compassionate reasons.

For example, in cases where you are satisfied that there has been a permanent breakdown in the relationship between the applicant and the relevant EEA citizen (or qualifying British citizen or relevant sponsor), it may not be possible for the applicant to obtain or produce the required document.

You must consider each case on its merits as to whether you are satisfied that the applicant cannot obtain or produce the required document, having made every

reasonable effort to do so or having shown why it is not possible for them to do so. For guidance, see Alternative evidence of identity and nationality or of entitlement to apply from outside the UK.

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

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

remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

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

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

- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (a) in the applicable definition in Annex 1 to Appendix EU – such as an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1) resident in the UK and Islands for a continuous qualifying period which began before the specified date; and the EEA citizen, having been resident in the UK and Islands as described above, has been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked or invalidated
    - limited leave to enter or remain under paragraph EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed or invalidated
- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (b) of the applicable definition in Annex 1 to Appendix EU – such as an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted either:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a relevant naturalised British citizen, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (c) of the applicable definition in Annex 1 to Appendix EU who falls within sub-paragraphs (a), (c) and (d) of the entry for ‘relevant naturalised British citizen’ in Annex 1 to Appendix EU, and would, if they had made a valid application under Appendix EU before 1 July 2021, have, but for the fact that they are a British citizen, been granted:

    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a person who is a dual British and EEA citizen: McCarthy cases, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (d) of the applicable definition in Annex 1 to Appendix EU who was resident in the UK and Islands for a continuous qualifying period which began before the specified date; and the EEA citizen, having been resident in the UK and Islands as described above and if they had made a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted:
    - indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - limited leave to enter or remain under paragraph EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed or invalidated before the date of application
- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a person of Northern Ireland, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (e) of the applicable definition in Annex 1 to Appendix EU who was resident in the UK and Islands for a continuous qualifying period which, unless they are a specified relevant person of Northern Ireland, began before the specified date; and the EEA citizen, having been resident in the UK and Islands as described above:
    - is an Irish citizen who has been granted indefinite or limited leave to enter or remain under paragraph EU2 or (as the case may be) EU3 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, curtailed, revoked or invalidated
    - is an Irish citizen who, if they had made a valid application under Appendix EU before 1 July 2021, would have been granted indefinite or limited leave to enter or remain under paragraph EU2 or (as the case may be) EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed, revoked or invalidated before the date of application
    - is a British citizen, or a British citizen and an Irish citizen, who, if they had made a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted indefinite or limited leave to enter or remain under paragraph EU2 or (as the case may be) EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed, revoked or invalidated before the date of application
- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a person exempt from immigration control, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (f) of the applicable definition in Annex 1 to Appendix EU who was resident in the UK and Islands for a continuous

qualifying period which began before the specified date; and the EEA citizen, having been resident in the UK and Islands as described above, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted indefinite or limited leave to enter or remain under paragraph EU2 or (as the case may be) EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed, revoked or invalidated before the date of application

- where the applicant is (or for the relevant period was) a family member of a relevant EEA citizen, and where the applicant is a family member of a frontier worker, that EEA citizen is a relevant EEA citizen as described in sub-paragraph (g) of the applicable definition in Annex 1 to Appendix EU, with the frontier worker meeting (or for the relevant period having met) the requirements of the definition of 'frontier worker' in Annex 1 to Appendix EU
- where the applicant is (or for the relevant period was) a family member of a qualifying British citizen, that British citizen both:
  - is (or for the relevant period was) a qualifying British citizen
  - is (or was) a qualifying British citizen throughout any continuous qualifying period on which the applicant relies as being a family member of a qualifying British citizen
- where the applicant is (or for the relevant period was) a joining family member of a relevant sponsor, that relevant sponsor both:
  - is (or for the relevant period was) a relevant sponsor
  - is (or was) a relevant sponsor throughout any continuous qualifying period on which the applicant relies as being a joining family member of a relevant sponsor

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

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

Where the eligibility requirements to be met for leave to be granted under the scheme relate to the death of a person, the required evidence of family relationship must include their death certificate or other evidence which you are satisfied evidences the death.

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

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

Family members of the people of Northern Ireland

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

This means both:

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

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

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

A. Evidence that the person was born in Northern Ireland

Either:

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

B. Evidence of the person's relationship to their parent:

- the person's birth certificate which names their parent and which both:
  - is linked to the person through a valid photographic identity document

- was issued within 12 months of the person's birth (if it was not, then the photographic identity document must be based on additional evidence to the birth certificate)

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

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

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

Whether or not the person's parent was a British citizen at birth depends on the rules that were in force at the time. The types of evidence you need to see to establish that a person's parent was a British citizen at birth are set out on pages 13 and 14 of British citizenship: automatic acquisition guidance and you must consider any evidence submitted by the applicant in line with that guidance.

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

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

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

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

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

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

If the person's parent applied to become an Irish citizen, you will need to ask the applicant to provide the parent's certificate of Irish citizenship and a valid

photographic identity document that links the parent to the certificate so you can be sure it belongs to them.

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

E. Evidence that one of the person's parents was otherwise entitled to reside in Northern Ireland without any restriction on their period of residence at the time of the person's birth

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

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

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

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

- a UK passport describing the parent as a British subject with the right of abode
- the parent's passport endorsed with a 'certificate of entitlement' which proves the holder had the right of abode
- a document issued under the Windrush Scheme
- the parent's biometric residence permit or biometric residence card showing indefinite leave to enter or remain, or 'no time limit', under UK immigration law or a right of permanent residence under EU law which was valid at the time of the person's birth

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

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

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

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

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

Specified relevant person of Northern Ireland

Where the applicant relies on their relevant EEA citizen or relevant sponsor being a 'specified relevant person of Northern Ireland', you will need to be satisfied, having followed the guidance immediately above, that that person is a relevant person of Northern Ireland and is either a British citizen or a dual British and Irish citizen (such as they are not solely an Irish citizen).

You must also be satisfied that the applicant is a non-EEA citizen.

You must also be satisfied that the applicant is either:

- a joining family member of a relevant sponsor (where the specified relevant person of Northern Ireland is the relevant sponsor) and the applicant must have satisfied you by relevant information or evidence provided with the application that, due to compelling practical or compassionate reasons, it was not possible for that person to return to the UK before the specified date while the applicant remained outside the UK
- the dependent relative of the specified relevant person of Northern Ireland, who is the applicant's 'sponsoring person' (under the definition of 'dependent relative' in Annex 1 to Appendix EU), and the applicant relies, as their relevant document as the dependent relative of their sponsoring person (as described in sub-paragraph (a)(iv) of the definition of 'relevant document' in Annex 1 to Appendix EU), on an EU Settlement Scheme Family Permit granted to them under Appendix EU (Family Permit) as a 'dependent relative of a specified relevant person of Northern Ireland', as defined in Annex 1 to that Appendix

Family members of persons exempt from immigration control

In addition to the 'other evidence' section above – which is required where the family member applying for status under the scheme is either a non-EEA citizen without a documented right of permanent residence, or an EEA citizen without a documented right of permanent residence who relies, in this case, on being (or for the relevant period on having been) a family member of a relevant EEA citizen or a joining family member of a relevant sponsor – where such an applicant relies on being a family member of a person exempt from immigration control who does not hold EU Settlement Scheme status, you will need both:

- to see evidence from the applicant or which is otherwise available to you that the relevant EEA citizen or relevant sponsor is (or for the relevant period was) exempt from immigration control in accordance with section 8(2), (3) or (4) of the Immigration Act 1971
- (where the date of application is before 1 July 2021) to be satisfied that the person exempt from immigration control is either:
  - resident in the UK and Islands for a continuous qualifying period which began before the specified date
  - a person who, having been resident in the UK and Islands as described above, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
- (where the date of application is on or after 1 July 2021) to be satisfied that the person exempt from immigration control is generally both:
  - resident in the UK and Islands for a continuous qualifying period which began before the specified date
  - a person who, having been resident in the UK and Islands as described above, would, if they had made a valid application under Appendix EU

before 1 July 2021, have been granted indefinite or limited leave to enter or remain under paragraph EU2 or (as the case may be) EU3 of Appendix EU, which would not have lapsed or been cancelled, curtailed, revoked or invalidated before the date of application

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

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

See Persons exempt from control for further guidance.

Family members of frontier workers

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

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

You also need to be satisfied, in either case, that the relevant EEA citizen or relevant sponsor has not been (and is not to be) refused admission to, or removed from, the UK by virtue of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020.
A frontier worker is defined in Annex 1 to Appendix EU as a person who:

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

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

Related content
Contents
British citizenship: automatic acquisition
No time limit
Persons exempt from control
Frontier worker permit scheme caseworker guidance

Related external links
Appendix EU to the Immigration Rules
Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020

Applications in respect of children

Under section 55 of the Borders, Citizenship and Immigration Act 2009, the Home Office has a duty to have regard to the need to safeguard and promote the welfare of children under the age of 18 who are in the UK. In respect of this guidance, the section 55 duty means you need to identify and act on any concerns about the welfare of any child of whom you become aware while considering an application under the scheme.

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

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

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

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

Referral to Children's Services or other agencies

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

- the child appears to be living alone or to have no fixed abode
- the child is, or appears to be, being cared for as part of a non-local authority fostering arrangement
- the child may have been trafficked or is at risk of exploitation
- the child may be at risk of harm or abuse in their current situation
- a Certificate of Eligibility to Adopt has not been issued - see the section Children adopted from outside the UK

You must refer to guidance on making child safeguarding referrals to local authorities.

Requesting further information or evidence

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

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

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

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

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

The examples above are not prescriptive or exhaustive. It may be that the child does not themselves directly possess such evidence or that they are unable, due to

estrangement or other welfare reasons, to approach the person who may possess the relevant documentation. If so, alternative avenues, such as enquiries with the parent, guardian or other third parties, are to be pursued where possible.

Enquiries with the parent, guardian or other third parties

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

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

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

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

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Making a referral

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

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

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

Deciding the application

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

Children adopted from outside the UK

The UK's adoption legislation governing the bringing of a child adopted from outside

the UK into the UK applies to all prospective adopters who are habitually resident in the UK, whatever their nationality. It can amount to a criminal offence to bring a child into the UK where section 83 of the Adoption and Children Act 2002 (England & Wales), articles 58ZA and 58ZB of the Adoption (Northern Ireland) Order 1987 or section 58 of the Adoption and Children (Scotland) Act 2007 applies, without complying with the relevant requirements imposed by those provisions or by regulations made under them, including being assessed and approved by a registered adoption agency.

Where those provisions, or regulations made under them, apply, the Department for Education or other relevant Central Authority in the UK must issue a Certificate of Eligibility to Adopt, which attests to the suitability of the adopters (confirming that they have been assessed as suitable to adopt by a registered adoption agency), before the child enters the UK. The intercountry adoption process and the legal requirements to be met before a child adopted from outside the UK can enter the UK exist to safeguard against the trafficking of children and to promote their welfare.

Therefore, in cases where a child has been adopted from outside the UK, you must check whether a Certificate of Eligibility to Adopt is required and, if so, whether it has been issued. You must use the information below to help you check this. If a Certificate of Eligibility to Adopt has not been issued in a case where it is required, you may need to make a safeguarding referral and you must speak to your senior caseworker.

Where a child was legally adopted in a country named on The Adoption (Recognition of Overseas Adoptions) Order 2013 on or after 3 January 2014 and that adoption took place more than 12 months before the date on which they are seeking to bring the child into the UK, the prospective adopters are not required to apply for a Certificate of Eligibility to Adopt.

Where a child was legally adopted in a country named on The Adoption (Designation of Overseas Adoptions) Order 1973 or The Adoption (Designation of Overseas Adoptions) (Variation) Order 1993 before 3 January 2014, the prospective adopters are not required to apply for a Certificate of Eligibility to Adopt.

A Certificate of Eligibility to Adopt (albeit worded slightly differently) will also be issued in all Hague Convention applications.

Evidence that a Certificate of Eligibility to Adopt has been issued may, for example, be confirmed in a letter from the relevant Central Authority. However, you must also email the relevant Central Authority to check whether a Certificate of Eligibility to Adopt has been issued:

- England
- Scotland
- Wales - for Hague Convention adoptions only, otherwise contact ICA Darlington
- Northern Ireland - for Hague Convention adoptions only, otherwise contact ICA Darlington

For more information see: Adopted children and children coming to the UK for adoption caseworker guidance.

Applicants aged over 18 and under 21

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

Related content
Contents
Victims of modern slavery

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Every Child Matters
Section 55 of the Borders, Citizenship and Immigration Act 2009
Child adoption: Adopting a child from overseas - GOV.UK
Adoption and Children Act 2002
The Adoption (Northern Ireland) Order 1987
Adoption and Children (Scotland) Act 2007
Intercountry adoption: information for adoption agencies
Adopted children and children coming to the UK for adoption caseworker guidance

Applications in respect of adults with mental capacity issues and / or care or support needs

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

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

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

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

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

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

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

If the person's mental capacity fluctuates, then their consent must be sought, when they are able to give it, for an appropriate third party to make an application on their behalf if they are unable to apply themselves.

In all cases concerning lack of mental capacity, you must be satisfied that the person acting on behalf of the individual either or both:

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

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

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

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

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

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

Power of Attorney

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

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

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

- in England and Wales, an attorney will be appointed under either a Lasting Power of Attorney (LPA) or an Enduring Power of Attorney (the forerunner of the LPA) – a person must be aged 18 or over to be able to make a Power of Attorney and have capacity to understand what they are doing when granting this
- in Scotland, there are 3 types of Power of Attorney, either Continuing, Welfare or Combined, which can be made by a person aged 16 or over with capacity
- in Northern Ireland, there is the Enduring Power of Attorney, which can be made by a person aged 18 or over with capacity

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

Court appointed authorisations

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

England and Wales: Deputy appointed by the Court of Protection

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

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

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

Scotland: Guardian or Intervener appointed by the Sheriff Court

A guardianship order may cover all the individual's property and financial affairs and personal welfare, including healthcare matters. A similar scope applies to

intervention orders, which are designed for actions with a specific end, as opposed to ongoing powers granted in a guardianship order.

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

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

Legal guardianship

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

Applications made by another appropriate third party

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

Evidence that may satisfy you of this may include:

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

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

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

The third party must also ensure they are acting appropriately according to the requirements of the Immigration Advice Authority (IAA), previously known as the Office of the Immigration Services Commissioner. The IAA is a government body set up to protect those seeking immigration advice through regulation, enforcement and promoting best practice.

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

Further information about assistance that can be provided without the requirement for regulation can be found in the Immigration assistance: practice note.

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

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

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

Related content
Contents

Related external links
Grant funded voluntary and community organisations
Mental Capacity Act 2005
Adults with Incapacity Act (Scotland) 2000
Mental Health Order (Northern Ireland) 1986
Enduring Powers of Attorney Order (Northern Ireland) 1987
Make decisions on behalf of someone
Adults with incapacity: guide to assessing capacity
Managing your affairs and enduring power attorney
Code of Practice for Mental Health Order (Northern Ireland) 1986
Guidelines on the use of the Mental Health Order (Northern Ireland) 1986
Office of the Public Guardian (OPG)
Office of the Public Guardian in Scotland
Office of Care and Protection in Northern Ireland
About us - Immigration Advice Authority
Immigration assistance: practice note
Application for Level 1 EU Settlement Scheme registration
How to become a regulated immigration adviser

Suitability

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

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

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

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

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

Under rule EU15(1A), an application under Appendix EU will be refused on grounds of suitability where, because of the applicant's conduct committed before the specified date, the Secretary of State is satisfied that the decision to refuse the application is justified on the grounds of public policy, public security or public health in accordance with regulation 27 of the European Economic Area (EEA) Regulations, irrespective of whether the EEA Regulations apply to that person (except that in regulation 27 for 'with a right of permanent residence under regulation 15' and 'who has a right of permanent residence under regulation 15' read 'who has indefinite leave to enter or remain under, or who meets the requirements of, paragraph EU11, EU11A or EU12 of, Appendix EU to the Immigration Rules'; and for 'an EEA decision' read 'a decision under paragraph EU15(1A) of Appendix EU to the Immigration Rules').

Under rule EU15(2), an application made under Appendix EU will be refused on grounds of suitability where the Secretary of State deems the applicant's presence in the UK is not conducive to the public good because of conduct committed after the specified date. See guidance: Non conducive for more information.

Under rule EU15(3) and (4), where, at the date of decision on an application under Appendix EU, the applicant is subject to either:

- an 'Islands deportation order' (as defined in Annex 1 to Appendix EU), the application will be refused on grounds of suitability
- an 'Islands exclusion decision' (as defined in Annex 1 to Appendix EU), the application may be refused on grounds of suitability

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

Official – sensitive: end of section

Applicants (aged 18 or over) are required to provide information about previous criminal convictions in the UK and overseas and are only required to declare past criminal convictions which appear in their criminal record in accordance with the law of the state of conviction at the time of the application. There is no requirement to declare spent offences, cautions or alternatives to prosecution, for example fixed penalty notices for speeding.

Applicants (aged 18 or over) are also required, as in other immigration applications, to declare whether they have any been involved in any terrorist related activities, war crimes, crimes against humanity or genocide.

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

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

From information provided by the applicant and obtained from the PNC and / or WI, Customer Services Group (formerly UK Visas and Immigration) must determine whether the application is to be referred to Immigration Enforcement (IE) for full case by case consideration of the individual's conduct on:

- grounds of public policy, public security or public health as set out in the European Economic Area (EEA) Regulations, as saved, where the conduct was committed before the specified date
- the ground the Secretary of State deems the applicant's presence in the UK is not conducive to the public good, where the conduct was committed after the specified date

If a decision is then made by IE that falls within rule EU15(1), EU15(1A) or EU15(2) (such as a decision to deport or exclude the individual), the application under the scheme will be refused by IE. The refusal under the EUSS must include a public policy, public security or public health consideration if the decision by IE was made on non-conducive grounds for conduct committed before 11pm GMT on 31 December 2020.

If the person is the subject of a pending prosecution which may result in deportation action being taken if the person is convicted, but at the point of consideration the person does not fall to be refused on suitability grounds, the EUSS application must be progressed and, if all validity, eligibility and suitability criteria are met, the relevant leave must be granted. If that person is subsequently convicted, deportation action

may then be considered and, where a deportation order is made, this will invalidate the leave under section 5(1) of the Immigration Act 1971.

Under rule EU16 an application under Appendix EU may be refused on grounds of suitability where, at the date of decision, the decision-maker is satisfied that:

- EU16(a): it is proportionate to refuse the application where, in relation to the application and whether or not to the applicant's knowledge, false or misleading information, representations or documents have been submitted (including false or misleading information submitted to any person to obtain a document used in support of the application), and the information, representation or documentation is material to the decision whether or not to grant the applicant indefinite leave to enter or remain or limited leave to enter or remain under the scheme
- EU16(b): it is proportionate to refuse the application where, the applicant is subject to a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights, and the date of application under Appendix EU is before 1 July 2021
- EU16(c): the applicant either:
  - has previously been refused admission to the UK in accordance with regulation 23(1) of the EEA Regulations
  - has previously been refused admission to the UK in accordance with regulation 12(1)(a) of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020
- had indefinite or limited leave to enter or remain granted under Appendix EU (or limited leave to enter granted by virtue of having arrived in the UK with entry clearance that was granted under Appendix EU (Family Permit)) which was cancelled under paragraph A3.1., A3.1A., A3.1B. or A3.2.(a) of Annex 3 to Appendix EU or under paragraph A3.3. or A3.4.(a) of Annex 3 to Appendix EU (Family Permit)
- and (in either case) the refusal of the application is justified either:
  - in respect of the applicant's conduct committed before the specified date, on grounds of public policy, public security or public health in accordance with regulation 27 of the EEA Regulations, irrespective of whether those Regulations apply to that person (except that in regulation 27 for 'with a right of permanent residence under regulation 15' and 'who has a right of permanent residence under regulation 15' read 'who has indefinite leave to enter or remain under, or who meets the requirements of, paragraph EU11, EU11A or EU12 of, Appendix EU to the Immigration Rules'; and for 'an EEA decision' read 'a decision under paragraph EU16(c) of Appendix EU to the Immigration Rules'), and it is proportionate to refuse the application (taking into account the particular circumstances and facts of the case at the date of decision)
  - in respect of conduct committed after the specified date, where the Secretary of State deems the applicant's presence in the UK is not conducive to the public good
- EU16(d): it is proportionate to refuse the application where the applicant is a relevant excluded person (as defined in Annex 1 to Appendix EU) because of their conduct committed before the specified date and the Secretary of State is satisfied that the decision to refuse the application is justified on the grounds of

public policy, public security or public health in accordance with regulation 27 of the EEA Regulations, irrespective of whether the EEA Regulations apply to that person (except that in regulation 27 for 'with a right of permanent residence under regulation 15' and 'who has a right of permanent residence under regulation 15' read 'who has indefinite leave to enter or remain under, or who meets the requirements of, paragraph EU11, EU11A or EU12 of, Appendix EU to the Immigration Rules'; and for 'an EEA decision' read 'a decision under paragraph EU16(d) of Appendix EU to the Immigration Rules')
- EU16(e): the applicant is a relevant excluded person because of conduct committed after the specified date
- EU16(f): it is proportionate to refuse the application where it is more likely than not that, after the specified date, the applicant has assisted another person fraudulently to obtain, or to attempt to obtain, entry clearance to, or leave to enter or remain in, the UK.

When considering whether to refuse on the basis of rule EU16(a), the decision-maker must examine whether the deception is material to the decision whether to grant the applicant indefinite leave to enter or remain or limited leave to enter or remain under the scheme. This is where the false or misleading information, representation or documentation concerns the applicant's ability to meet the requirements of Appendix EU. Where false information, representations or documents have been submitted, whether or not to the applicant's knowledge, and which are material to the decision whether or not to grant the applicant indefinite leave to enter or remain or limited leave to enter or remain under the scheme, the decision-maker may refuse the application on the basis of rule EU16(a), if it is proportionate to do so.

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

When considering whether to refuse on the basis of rule EU16(b), the decision-maker may refuse the application only where it is proportionate to do so and the date of application under Appendix EU is before 1 July 2021.

A refusal on the basis of rule EU16(c) may only take place where the applicant has previously either:

- been refused admission under regulation 23(1) of the EEA Regulations (as saved)
- been refused admission to the UK under regulation 12(1)(a) of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020
- had previous leave granted under Appendix EU, or acquired by virtue of having arrived in the UK with entry clearance granted under Appendix EU (Family Permit), which in either case was cancelled:

- under paragraph A3.1., A3.1A., A3.1B. or A3.2.(a) of Annex 3 to Appendix EU
- under paragraph A3.3. or A3.4.(a) of Annex 3 to Appendix EU (Family Permit)

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

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

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

Rule EU16(e) applies where a person is a 'relevant excluded person' because of conduct committed after the specified date.

A 'relevant excluded person' means a person:

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

Under rule EU17, the application must not be refused on the basis of an order or decision as specified in EU15 or EU16 which, at the date of decision on the application, has been set aside or revoked.

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

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

Related content
Contents
EU Settlement Scheme: suitability requirements

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Qualifying residence

Continuous qualifying period

Completing, as a relevant European Economic Area (EEA) citizen or their family member, a continuous qualifying period of residence in the UK and Islands (or only in the UK, where this is the requirement in some scenarios involving a person who has ceased activity or a family member who has retained the right of residence) generally means that the applicant was resident in the UK and Islands (or, where applicable, the UK) before 11pm on 31 December 2020, except in the case of:

- a joining family member of a relevant sponsor (whose continuous qualifying period can only begin on or after 1 January 2021)
- a relevant EEA family permit case
- a specified relevant person of Northern Ireland (or the dependent relative of such a person)
- an applicant who relies on any of bullet points 3 to 6 in the list of exceptions below, under which certain absence will not count towards any period of residence in the UK and Islands on which the person relies - in such circumstances, a person who has previously been granted limited leave to enter or remain under Appendix EU may need to complete the required period of residence in order to be eligible for indefinite leave to enter or remain

Completing a continuous qualifying period of residence also generally means that the applicant has not been absent from the UK and Islands (or, where applicable, the UK) for more than 6 months in total (in a single period of absence or more than one) in any given 12-month period, throughout the period of residence relied upon by the applicant.

There are some exceptions:

- a single period of absence of more than 6 months but which does not exceed 12 months is permitted, where this is for an important reason, such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting, or due to domestic violence or abuse, or because of COVID-19:
  - evidence to support an absence because of pregnancy, childbirth or serious illness might take the form of a letter or other records from a qualified medical professional
  - evidence to support an absence because of study, vocational training or an overseas posting might take the form of a letter or other records from the relevant educational establishment or employer
  - evidence to support an absence due to domestic violence or abuse will need to demonstrate that the relevant family relationship broke down permanently because of domestic violence or abuse
  - evidence to support an absence because of COVID-19
- a single period of absence of more than 6 months but which does not exceed 12 months is permitted, where the absence was not originally for an important

reason but is to be treated as being for an important reason as it exceeded 6 months because of COVID-19

- (following a period of absence under the first bullet point above because of COVID-19 or under the second bullet point above) a second period of absence of more than 6 months but which does not exceed 12 months is permitted, where both:
  - this is for an important reason (such as described in the first bullet point above)
  - save for caring for someone with a serious illness, that reason is not because of COVID-19

  the period of this absence exceeding 6 months will not count towards any period of residence in the UK and Islands on which the person relies
- (following a period of absence under the first bullet point above which, save for caring for someone with a serious illness, was not because of COVID-19) a second period of absence of more than 6 months but which does not exceed 12 months is permitted, where both:
  - this is for an important reason
  - that reason is because of COVID-19

  the period of this absence exceeding 6 months will not count towards any period of residence in the UK and Islands on which the person relies
- (following a period of absence under the first bullet point above which, save for caring for someone with a serious illness, was not because of COVID-19) a period of absence under the second bullet point above is permitted; the period of this absence exceeding 6 months will not count towards any period of residence in the UK and Islands on which the person relies
- a period of absence under any of the bullet points above which exceeded 12 months is permitted, where COVID-19 meant that the person was prevented from, or advised against, returning earlier; the period of this absence exceeding 12 months will not count towards any period of residence in the UK and Islands on which the person relies
- any period of absence on compulsory military service:
  - evidence to support a period of absence because of compulsory military service might take the form of a letter or other records from the relevant government body
- any period of absence on a posting on Crown service or (as a spouse, civil partner, durable partner or child) accompanying a person on a posting on Crown service - see Crown servants and HM Forces personnel
- any period spent working in the UK marine area (as defined in section 42 of the Marine and Coastal Access Act 2009)
- where the person has limited leave to enter or remain granted under rule EU3 of Appendix EU, any period / periods of absence which did not exceed a total of 30 months in the most recent 60-month period, as at the date of application (where the Secretary of State is considering whether the requirements for indefinite leave to enter or remain in rule EU2 are met) or (as the case may be) at the date on which, under rule EU4, the Secretary of State is considering whether to grant them indefinite leave to enter or remain under rule EU2, without a valid application under this Appendix having been made
- where the person has limited leave to enter or remain granted under rule EU3A of Appendix EU, any period / periods of absence which did not exceed a total of 30 months in the most recent 60-month period, as at the date of application

(where the Secretary of State is considering whether the requirements for indefinite leave to enter or remain under rule EU2A are met) or (as the case may be) at the date on which, under rule EU4, the Secretary of State is considering whether to grant them indefinite leave to enter or remain under rule EU2A without a valid application under this Appendix having been made

- any period of absence due directly to an order or decision to which sub-paragraph (b)(iii) of the definition of 'continuous qualifying period' in Annex 1 to Appendix EU refers (as described below), where that order or decision has been set aside or revoked

The continuous qualifying period must continue at the date of application, or at the date on which the case is considered for automatic conversion from limited leave to enter or remain to indefinite leave to enter or remain, unless one of the exceptions set out in sub-paragraph (c) of the definition of 'continuous qualifying period' in Annex 1 to Appendix EU applies. These exceptions are that either:

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

member who has retained the right of residence by virtue of a relationship with a relevant sponsor, provided (in either case) the continuous qualifying period relating to that relevant sponsor continued (unless sub-paragraph (c)(i), (c)(ii)(aa), (c)(iii) or (c)(iv) of the definition of 'continuous qualifying period' in Annex 1 to Appendix EU applied to that relevant sponsor instead) until the applicant became a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor

- under sub-paragraph (c)(iii), the person has valid indefinite leave to enter or remain granted under Appendix EU (or under its equivalent in the Islands)
- under sub-paragraph (c)(iv), there is valid evidence of their indefinite leave to enter or remain
- under sub-paragraph (c)(v), a relevant reference is concerned
- under sub-paragraph (c)(vi), where either of the provisions in the previous paragraph concerning any period / periods of absence which did not exceed a total of 30 months in the most recent 60-month period applies

A 'relevant reference' (to a continuous qualifying period completed in the past) means the reference to continuous qualifying period in either:

- condition 6 in rule EU11 of Appendix EU
- condition 3 in rule EU11A of Appendix EU
- sub-paragraph (d)(iii)(aa) of the entry for 'family member who has retained the right of residence' in Annex 1 to Appendix EU (as that reference applies to, as the case may be, the relevant EEA citizen, the qualifying British citizen or the relevant sponsor)
- (where the date of application is on or after 1 July 2021) also any of the additional provisions listed in that definition of 'relevant reference' within the definition of 'continuous qualifying period' in Annex 1 to Appendix EU

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

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

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under the equivalent provisions of the EEA Regulations of the Isle of Man)
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the EEA Regulations of the Isle of Man)
- an exclusion decision
- a deportation order, other than by virtue of the EEA Regulations
- an Islands deportation order
- an Islands exclusion decision

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

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

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

However, imprisonment which does not lead to deportation is not a ‘supervening event’ for the purposes of the scheme. This means that a person may rely on having previously either:

- acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations
- acquired the right of permanent residence in the Islands through the application there of section 7 of the Immigration Act 1988 (as it had effect before it was repealed) or under the EEA Regulations of the Isle of Man
- completed a continuous qualifying period of residence in the UK and Islands of 5 years

in applying for settled status even where they have been imprisoned since acquiring that right (or completing that period), if the imprisonment did not or does not lead to deportation.

When assessing whether an applicant has a continuous qualifying period of residence in the UK, the applicant’s immigration status during the period of residence relied on, including whether they were at any point exempt from immigration control while resident in the UK, is immaterial: the test is whether all the relevant criteria set out in the definition of continuous qualifying period are met.

Where an applicant is granted settled status (indefinite leave to enter or remain under Appendix EU), their status will lapse when they have been absent from the UK and Islands for a period of more than 5 consecutive years (or of more than 4 consecutive years in the case of Swiss citizens and their family members). There are exceptions for those overseas on Crown service and those accompanying them. Where a person's settled status has lapsed, they can apply under Appendix Returning Resident to the Immigration Rules if they want to return to and settle in the UK. Further information can be found at returning residents.

Where an applicant is granted pre-settled status (limited leave to enter or remain under Appendix EU), their status will generally lapse when they have been absent from the UK and Islands for a period of more than 5 consecutive years (or of more than 4 consecutive years in the case of Swiss citizens and their family members).

There are exceptions for those overseas on Crown service and those accompanying them.

COVID-19

Where this guidance refers to absence 'because of COVID-19', it means where an EEA citizen or their family member, who was resident in the UK and Islands (or, where applicable, the UK) by the end of the transition period at 11pm on 31 December 2020 (or who, having been so, relies on any of the exceptions above under which certain absence will not count towards any period of residence in the UK and Islands on which the person relies), has been:

- ill with COVID-19
- in quarantine, self-isolating or shielding in accordance with local public health guidance on COVID-19
- caring for a family member affected by COVID-19
- prevented from returning earlier to the UK due to travel disruption caused by COVID-19
- advised by their university that, due to COVID-19, their course was moved to remote learning and were advised or allowed to return to their home country to study remotely
- advised by their university or employer not to return to the UK, and to continue studying or working remotely from their home country
- absent for another reason relating to COVID-19, for example, they left or remained outside the UK because there were fewer coronavirus restrictions elsewhere; they preferred to work or run a business from home overseas; or they would have been unemployed in the UK and preferred to rely on support from family or friends overseas

This means that such a person can rely on any COVID-19 related reason (including where they chose to leave or remain outside the UK because of the pandemic) as being an 'important reason' permitting an absence of up to 12 months.

The above is a non-exhaustive list of COVID-19 related reasons for absence and each case must be considered on an individual basis in light of the information and

evidence provided by the applicant. For a non-exhaustive list of examples of relevant evidence, see below.

As set out above, a second period of absence of more than 6 months but which does not exceed 12 months is permitted where you are satisfied this was (or is to be treated as being) for an 'important reason' and, save for caring for someone with a serious illness, one of those absences (not both) is because of COVID-19. Each case must be considered on an individual basis in light of the information and evidence provided by the applicant. For a non-exhaustive list of examples of relevant evidence, see below.

This means a person can rely on any COVID-19 related reason (including where they chose to leave or remain outside the UK because of the pandemic) as the basis for requiring a second period of absence of up to 12 months for an 'important reason'.

In such a case, up to the first 6 months of the second period of absence will be counted towards their continuous qualifying period of residence, where the period counted means they have not been absent for more than 6 months in any 12-month period. Their continuous qualifying period will be paused from that point and will resume from the point of return to the UK and Islands (or, where applicable, the UK).

As also set out above, a period of absence may exceed the 12-month maximum for a period of absence for an 'important reason' where COVID-19 meant that the person was prevented from, or advised against, returning to the UK and Islands (or, where applicable, the UK) earlier, such as where they were:

- ill with COVID-19
- in quarantine, self-isolating or shielding in accordance with local public health guidance on COVID-19
- caring for a family member affected by COVID-19
- prevented from returning earlier to the UK due to travel disruption caused by COVID-19
- advised by their university or employer not to return to the UK, and to continue studying or working remotely from their home country, due to COVID-19

This is a non-exhaustive list of such reasons and each case must be considered on an individual basis in light of the information and evidence provided by the applicant. For a non-exhaustive list of examples of relevant evidence, see below.

In such a case, the absence beyond 12 months will not be counted as residence in the UK and Islands (or, where applicable under Appendix EU, the UK) for the purposes of the EUSS. Their continuous qualifying period will be paused from the point their absence reached 12 months and will resume from the point of return to the UK and Islands (or, where applicable, the UK).

Where, in the case of a person granted limited leave to enter or remain under Appendix EU as an EEA citizen or their family member who was resident in the UK and Islands (or, where applicable, the UK) by the end of the transition period, their absence (regardless of the reason for it) has exceeded 5 consecutive years (or

exceeded 4 consecutive years in the case of Swiss citizens and their family members) – that limited leave will have lapsed (meaning that, if they have a biometric residence card, this is no longer valid even if it is within its expiry date), in accordance with article 13(4) of the Immigration (Leave to Enter and Remain Order) 2000. Where that absence is in accordance with this guidance, they will be able to apply for a further grant of limited leave to enter or remain under Appendix EU. They can do so from outside the UK where they have the 'required proof of entitlement to apply from outside the UK'. Otherwise, they will need to apply for an EU Settlement Scheme family permit in order to return to the UK and make a further application under the scheme.

In all cases, the applicant will need to provide evidence of the length of, and reason for, any absence relating to COVID-19 on which they rely. Examples of acceptable evidence include:

- used travel tickets confirming the dates the applicant left the UK and returned
- confirmation of flight cancellations detailing the dates and times
- doctor's letter confirming the applicant contracted COVID-19
- doctor's letter confirming the applicant was identified as vulnerable and advised to shield
- email or letter confirming the applicant, or a person they were living with, received a positive COVID-19 test result
- official letter confirming the applicant was in COVID-19 quarantine
- doctor's letter confirming the applicant's family member, for whom they have been caring, contracted COVID-19 or was identified as vulnerable and advised to shield
- email or letter confirming the applicant's family member, for whom they have been caring, received a positive COVID-19 test result
- email or letter from a university advising that, due to COVID-19, their course was moved to remote learning and they were advised or allowed to return to their home country to study remotely
- email or letter from a university or employer advising the applicant not to return to the UK, and to continue studying or working remotely from their home country, due to COVID-19
- letter or other evidence from the applicant accounting for their absence for another reason relating to the COVID-19 pandemic, for example, they left or remained outside the UK because there were fewer COVID-19 restrictions elsewhere; they preferred to work or run a business from home overseas; or they would have been unemployed in the UK and preferred to rely on support from family or friends overseas

This list is non-exhaustive, and each case must be considered on a case by case basis. As elsewhere under the EU Settlement Scheme, you may exercise discretion in favour of the applicant where appropriate, to minimise administrative burdens, and you must refer to your senior caseworker if you require further advice.

Crown servants and HM Forces personnel

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

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

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

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

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

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

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

Crown Dependencies

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

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

Overseas Territories

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

Converting from pre-settled status to settled status – maintaining continuous residence

Where a person has previously been granted limited leave to enter or remain under Appendix EU (pre-settled status), they will, subject to meeting any other requirements applicable to them, be eligible for indefinite leave to enter or remain (settled status) where their continuous qualifying period began at least 60 months ago and they have been resident in the UK for at least 30 months in total within the most recent 60-month period. This can be any 30 months within that 60-month period and applies at the date of application for indefinite leave to enter or remain or the date on which they are considered for conversion to indefinite leave to enter or remain without a valid application having been made under Appendix EU.

Where a person has pre-settled status granted under rule EU3A of Appendix EU as a joining family member of a relevant sponsor, then, where they rely on having been resident in the UK for at least 30 months in total within the most recent 60-month period, they can only qualify for settled status under rule EU2A (as a joining family member).

A person can only rely on an earlier period of residence, than the most recent 60-month period, in applying for settled status where they have completed a 5-year continuous qualifying period of residence, without relying on this exception, and there has been no subsequent 'supervening event'.

Where a person who has previously been granted limited leave to enter or remain under Appendix EU has not been resident in the UK for at least 30 months in total within the most recent 60-month period, they can continue to rely on the other continuous residence requirements where relevant. In this circumstance, you must consider all the available information and evidence to determine their eligibility under the full continuous residence requirements. For example, if they have absences from the UK which total more than 30 months in the most recent 60-month period but it is for a reason permitted under Appendix EU, such as for compulsory military service, then, subject to meeting any other requirements applicable to them, they will be eligible for ILE or ILR.

Checks to establish UK residence

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

Where these checks indicate that the applicant has been resident in the UK for a continuous qualifying period of 5 years, and where the applicant has not since been absent from the UK for a period of more than 5 consecutive years, no further evidence of residence will be required to determine eligibility. Subject to evidence of the relevant family relationship (where relevant) and to suitability checks, the applicant will be granted indefinite leave to enter (ILE) or indefinite leave to remain (ILR).

Where these checks indicate that the applicant has been resident in the UK for a continuous qualifying period of less than 5 years, and the applicant confirms this (and does not claim to qualify for settled status on the basis of a continuous qualifying period of less than 5 years), no further evidence of residence will be required to determine eligibility. Subject to evidence of the relevant family relationship (where relevant) and to suitability checks, the applicant will be granted 5 years' limited leave to enter (LTE) or limited leave to remain (LTR).

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

Where these checks do not provide any evidence of the applicant's UK residence, or the applicant does not provide a National Insurance number, the applicant will be asked to provide documentary evidence to satisfy you that they meet the requirements for eligibility for either ILE or ILR or LTE or LTR.

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

Home Office travel data

Where a person is applying to the EU Settlement Scheme and does not already hold LTE or LTR under Appendix EU, Home Office travel data must not be used in isolation to establish the date on which their continuous qualifying period in the UK began. You must rely on other evidence to establish this.

Where an applicant already holds LTE or LTR under Appendix EU and they are making a further application for ILE or ILR, and the RPS does not confirm eligibility for ILE or ILR , you must conduct a check of the relevant Home Office systems and consider the travel data available to help establish the applicant's residence in the UK. Home Office travel data can be used to confirm residence where the RPS does not because individuals may legitimately reside in the UK without generating an RPS

footprint, for example, where they are not liable to pay UK taxes or receive UK benefits, both of which typically contribute to an RPS record.

Where Home Office travel data is used, it must be manually reviewed in conjunction with the RPS data, evidence from previous applications and the evidence provided with the current application. When assessing the relevant information and evidence, you must be satisfied that the applicant has demonstrated that they meet the residence requirements and any other requirements for eligibility for either LTE, LTR, ILE or ILR.

Home Office travel data is retained in line with internal data retention policies. Therefore, the data may only be used to help demonstrate their UK residence if the period of UK residence the applicant is relying on in applying for ILE or ILR under Appendix EU falls within the retention period as at the date the application is considered.

Reviewing travel data following RPS checks

Where the RPS does not provide the necessary residence information to determine eligibility for ILE or ILR under Appendix EU, a manual review of Home Office travel data is required to help establish whether the applicant has completed the required continuous qualifying period of residence in the UK. Where Home Office travel data is reviewed, it must be reviewed for the remaining period / periods relied upon that were not provided by the RPS checks.

The data recorded on Home Office systems may not be complete. In all cases, you must be satisfied that, based on all the information and evidence available for the entire continuous qualifying period relied upon, the person meets the relevant requirements. Where there is a missing travel event in travel data as shown by 2 consecutive entry or exit travel events, you must calculate the period of time between the applicant's recorded travel events which confirms their residence in the UK. Where this period of time exceeds the permitted absence period, breaking their continuous qualifying period, you must review the evidence provided with any previous applications, and if necessary, contact the applicant to request information or evidence. This includes where the applicant holds LTE or LTR and the data suggests they have been absent from the UK for over 30 months in total in the most recent 60-month period.

Where travel data is available, it will result in one of the following outcomes:

- where that travel data provides the required missing residence information then, subject to evidence of the relevant family relationship (where relevant) and to suitability checks, the applicant will be granted LTE, LTR ILE or ILR
- where the travel data and the evidence provided with the application does not provide the required residence information, the applicant must be asked to provide documentary evidence, to satisfy you of their eligibility for LTE, LTR, ILE or ILR

Where a check of Home Office travel data shows differences with RPS records, or where there are no travel events recorded at all, you must refer to the relevant

guidance section below to determine how to proceed. These scenarios require further investigation to ensure decisions are accurate.

Differences between RPS and travel data

Where a review of RPS information provides evidence of UK residence but Home Office travel data indicates that the individual may have been outside the UK during the same period and this information would have an impact on the consideration of whether the applicant has met the continuous residence requirement, you must review all the available information and evidence to ensure that a correct decision can be made. This includes a review of Home office travel data for the entire continuous qualifying period relied upon, and any information or evidence submitted with the current application and any previous application / applications.

In these circumstances, if a review of all the available information and evidence does not validate that the applicant has met the continuous residence requirements, you must then contact them and provide them with the Home Office travel data available to you to clarify the period of UK residence they are relying on and request further supporting evidence. Where the applicant wishes to contest the Home Office travel data, they may provide additional evidence to demonstrate that they were residing in the UK for the relevant period / periods. Acceptable forms of evidence include:

- used travel tickets confirming the dates the applicant left and returned to the UK during the relevant period
- bank statements which show an in-person financial transaction in the UK during the relevant period
- an objectively verifiable letter from a doctor or health professional confirming attendance at a medical appointment or medical treatment in the UK, including dates and location which are during the relevant period
- a school letter confirming attendance in the UK during the relevant period
- a letter from a UK employer confirming work attendance during the relevant period

Where acceptable forms of evidence confirming physical presence in the UK cannot be provided, you must make an assessment on the balance of probabilities, using all the available information or evidence, of whether the applicant was resident in the UK during the relevant period / periods.

No travel data

Where a manual review of Home Office travel data is required but cannot be completed because the applicant has no travel data record, you must request additional documentary evidence from the applicant to confirm their UK residence. The applicant must provide sufficient evidence to be granted LTE, LTR, ILE or ILR, subject to meeting all other eligibility requirements.

In all such cases, where Home Office travel data is not available as part of your consideration of whether the applicant qualifies for LTE, LTR, ILE or ILR under Appendix EU, you must be satisfied by all the information and evidence available to

you that, on the balance of probabilities, the applicant has met the relevant continuous residence requirement.

EU3 applicants with LTE or LTR

Where the applicant has LTE or LTR granted under rule EU3 of Appendix EU and a manual check of Home Office travel data shows no travel events or travel data for them, you must make an assessment on the balance of probabilities as to whether the person is eligible for ILE or ILR under Appendix EU.

If the applicant has LTE or LTR granted under rule EU3 of Appendix EU and their entry into the UK from at least 5 years ago has been confirmed, but their Home Office travel data record shows no travel events, you must consider them eligible for ILE or ILR under Appendix EU, subject to all other eligibility requirements being met, if both:

- the grant of LTE or LTR falls within the Home Office travel data retention period, meaning that the absence of travel events can be relied upon as valid evidence that the applicant has not travelled outside the UK since being granted it
- there is no information or evidence to suggest that the applicant has left the UK since being granted the LTE or LTR

In cases where there is information or evidence to suggest that the applicant may have left the UK since being granted LTE or LTR and their Home Office travel data shows no travel events, you must request further information or evidence from the applicant to determine whether they are now eligible for ILE or ILR under Appendix EU. Evidence which suggests the applicant may have left the UK includes:

- bank statements which show financial transactions overseas
- evidence that the applicant has left the UK through the Common Travel Area
- information on Home Office systems to suggest that the applicant may have left the UK

In all such cases, you must be satisfied by all the information and evidence available to you that, on the balance of probabilities, the applicant has met the relevant continuous residence requirement.

EU3A applicants with LTE or LTR

Where the applicant has LTE or LTR granted under rule EU3A of Appendix EU and a manual check of Home Office travel data shows no travel events or travel data for them, you must first review the information and evidence provided by the applicant to confirm the date on which the applicant first entered the UK after the end of the transition period as a joining family member of a relevant sponsor.

If the applicant's entry into the UK from at least 5 years ago has been confirmed, and their Home Office travel data record shows no travel events, you must apply the same approach as set out under the heading 'EU3 applicants with LTE or LTR'

above, considering them eligible for ILE or ILR under Appendix EU, subject to all other eligibility requirements being met, if:

- the grant of LTE or LTR falls within the Home Office travel data retention period
- there is no information or evidence to suggest that the applicant has left the UK since being granted LTE or LTR

Where there is information or evidence to suggest that the applicant may have left the UK since being granted LTE or LTR and their Home Office travel data shows no travel events, you must follow the same process as outlined under the heading 'EU3 applicants with LTE or LTR' requesting further information or evidence to determine eligibility.

In all such cases, you must be satisfied by all the information and evidence available to you that, on the balance of probabilities, the applicant has met the relevant continuous residence requirement.

Examples

The examples below outline some circumstances in which Home Office travel data can support eligibility assessments. These examples are not exhaustive and every case must be considered in light of its circumstances and all the evidence provided.

Scenario 1 – first time application

A is the Mexican spouse of an Italian citizen and makes a first-time late application to the EU Settlement Scheme in September 2024. His relationship and identity are confirmed and the reasonable grounds for a late application accepted.

He claims that he has been resident in the UK since August 2017. RPS checks show A was employed in the UK from 2017 to 2020 but there is no further residence information available after this period.

A manual review of Home Office travel data shows it is likely that A entered, departed and re-entered the UK as follows:

- flight from Mexico City Benito Juárez International Airport to London Stansted Airport on 29 August 2020
- flight from London Stansted Airport to Mexico City Benito Juárez International Airport on 12 February 2022
- flight from Mexico City Benito Juárez International Airport to London Stansted Airport on 3 May 2022

Since there is no record of A leaving the UK after May 2022, together the RPS employment record and Home Office travel data show that A has been continuously resident in the UK for at least 5 years and is therefore eligible for ILR.

Scenario 2 – application to convert pre-settled status to settled status

B is an EEA citizen who was granted LTR under Appendix EU in April 2019. B makes an application for ILR in August 2025.

RPS checks indicate B was resident in the UK from April 2019, however RPS checks indicate a gap in UK residence from: 1 March 2020 - 1 April 2023 (37 months).

Because the RPS cannot confirm B's eligibility for ILR, the caseworker conducts a manual review of Home Office travel data.

The travel data shows B entered, departed and re-entered the UK as follows:

- flight from Kraków John Paul II International Airport to Birmingham Airport on 1 March 2020
- flight from Birmingham Airport to Kraków John Paul II International Airport on 25 February 2021
- flight from Kraków John Paul II International Airport to Birmingham Airport on 25 May 2022
- flight from Birmingham Airport to Kraków John Paul II International Airport on 6 September 2023
- flight from Kraków John Paul II International Airport to Birmingham airport on 1 January 2024

The travel data therefore fills in some gaps where RPS data is missing, specifically between:

- 1 March 2020 and 25 February 2021
- 25 May 2022 and 1 April 2023

Both datasets show that B likely has at least 34 months of confirmed UK residence in total in the most recent 60-month period at the date of application.

As B has sufficient evidence to demonstrate that, at the date of application, they have been resident in the UK for at least 30 months in total in the most recent 60-month period, and they already hold LTR, B qualifies for a grant of ILR.

Scenario 3 – no RPS or travel data

C is an 83-year-old EEA citizen who has been living in the UK since 2019. In October 2020, C was granted LTR and makes an application for ILR in October 2025.

RPS checks do not provide any residence information and there is no Home Office travel data for C. A review of the caseworking system confirms the evidence and information provided by C when they applied for LTR demonstrated their UK residence and therefore their eligibility for LTR.

Given the evidence that C was resident in the UK at the time of their previous grant of LTR and there is no evidence to suggest they left the UK since, on the balance of probabilities, it is reasonable to believe C has not travelled since their last entry to the UK. On that basis, it is assessed that C qualifies for ILR.

Scenario 4 – additional evidence required due to no RPS or travel data

D is an EEA citizen who has been living in the UK since 2017. In February 2021, D was granted LTR. D makes an application for ILR in October 2024.

D does not hold a National Insurance number meaning RPS checks are not possible and there is no Home Office travel data for D. A review of the case working system confirms that some information has already been uploaded by D when they applied for LTR demonstrating their UK residence from January 2017 to February 2021, but there is also some evidence of bank transactions outside the UK to suggest D may have left the UK shortly after their grant of LTR.

In response to a request for further evidence, D provides a number of signed letters relating to hospital appointments that confirm UK residence for the necessary period of February 2021 to October 2024. This evidence demonstrates that D has been resident in the UK for at least 30 months in the most recent 60-month period, so is eligible for a grant of ILR.

Scenario 5 – additional evidence required to establish missed travel events in travel data

E is an EEA citizen, who made a late valid application to the EU Settlement Scheme in July 2025.

RPS checks provide information to indicate E was resident in the UK from January 2019 to February 2021 and December 2023 to May 2024.

A manual check of Home Office systems identifies the following flight information for E:

- flight from Lisbon Portela Humberto Delgado Airport to London Luton Airport on 3 January 2020
- flight from London Luton Airport to Lisbon Portela Humberto Delgado Airport on 12 March 2021
- flight from Lisbon Portela Humberto Delgado Airport to London Luton Airport on 15 May 2021
- flight from Lisbon Portela Humberto Delgado Airport to London Luton Airport on 6 November 2023

This travel data confirms that E was likely resident in the UK from January 2020 to March 2021.

However, the above flight information is missing a corresponding outbound flight which has taken place between the flights of 15 May 2021 and 6 November 2023 which has not been recorded.

Because this could be up to a 32-month absence from the UK, a gap of over 2.5 years, E needs to be contacted to provide supplementary evidence to show they have not broken their continuous residence in the UK.

After contacting E for information regarding the missing corresponding travel event which occurred during the period of March 2021 to November 2023, E provides the necessary return flight information to confirm residence in the UK from May 2021, so qualifies for a grant of ILR.

Automated conversion from pre-settled to settled status

In January 2025, the Home Office introduced a process to automatically convert eligible pre-settled status (LTE or LTR) holders to settled status (ILE or ILR) where possible, without a valid application having been made.

Where automated conversion from pre-settled status (LTE or LTR) to settled status (ILE or ILR) is considered, and a National Insurance number is available, checks will be run against HMRC and certain DWP records to establish if the pre-settled status holder has been resident in the UK for a continuous qualifying period of 5 years and, if they have, that there has since been no absence constituting a 'supervening event'. Where these checks indicate that this is so, no further evidence of residence will be required and, where no other eligibility criteria apply and subject to suitability checks, they will be granted settled status (ILE or ILR).

The person is entitled to request, via the Resolution Centre, a manual reconsideration of the assessment of their continuous residence in the UK on which an automated decision to convert their pre-settled status to settled status is based. Where such a request is received, you must conduct a manual check of HMRC and certain DWP records to confirm whether the person has been resident in the UK for a continuous qualifying period of 5 years. You must reconsider the case in light of the outcome of that manual check, recording any additional information for the reconsideration in the relevant free text box. You must inform the person of the outcome of the manual reconsideration within one month of the date on which their request for it is received.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Armed Forces Act 2006

Consideration of applications: ILE or ILR

An applicant who has made a valid application will be eligible for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) as a relevant European Economic Area (EEA) citizen or their family member where you are satisfied (including, where applicable, by the required evidence of family relationship) one of the conditions of rule EU11 of Appendix EU is met:

- permanent residence (PR) document holders
- holders of indefinite leave to enter (ILE) or indefinite leave to remain (ILR) held since before the end of the transition period
- applicant has completed a continuous qualifying period of 5 years
- a relevant EEA citizen who is a person who has ceased activity
- family member of a relevant EEA citizen who is a person who has ceased activity
- family member of a relevant EEA citizen who has died
- child under the age of 21 years of a relevant EEA citizen or of their spouse or civil partner

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

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

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Supervening event

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

- the person has been absent from the UK and Islands for a period of more than 5 consecutive years at any point since they last either:
  - acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations
  - acquired the right of permanent residence in the Islands through the application there of section 7(1) of the Immigration Act 1988 (as it had effect before it was repealed) or under the Immigration (European Economic Area) Regulations of the Isle of Man
  - completed a continuous qualifying period of 5 years
- any of the following events has occurred in respect of the person, unless it has been set aside or revoked:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations (or under equivalent provisions of the EEA Regulations of the Isle of Man)
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1) (or the equivalent decision, subject to the equivalent qualification, under the Immigration (European Economic Area) Regulations of the Isle of Man)
  - an exclusion decision
  - a deportation order, other than by virtue of the EEA Regulations
  - an Islands deportation order
  - an Islands exclusion decision

Where indicated in Appendix EU in relation to eligibility for indefinite leave to enter or remain, the requirement that there has been ‘no supervening event’ applies in respect of the applicant.

In relation to an applicant’s eligibility for limited leave to enter or remain under Appendix EU as a family member of a relevant EEA citizen or as a joining family member of a relevant sponsor, the requirement that there has been ‘no supervening event’ applies in respect of (as the case may be) the relevant EEA citizen or the relevant sponsor.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Permanent residence (PR) document holders

Under condition 1 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) as a relevant European Economic Area (EEA) citizen, a family member of a relevant EEA citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, where you are satisfied that they have a documented right of PR and no supervening event has occurred in respect of the applicant.

Requirements

You must be satisfied that at the date of application:

- the applicant has been issued with either:
  - a document certifying permanent residence or a permanent residence card under the EEA Regulations
  - a residence permit or residence document under the Immigration (European Economic Area) Order 1994 endorsed to show permission to remain in the UK indefinitely
- the document or card is not invalid under regulation 19(4)(c) because the applicant never had a right of permanent residence and, if a permanent residence card, was issued or renewed within the last 10 years
- the document or card has not been revoked, and its renewal has not been refused under regulation 24 (except where the revocation or refusal occurred because the applicant had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person's right to reside has not been cancelled under regulation 25

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

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

In addition, you must be satisfied that no supervening event has occurred in respect of the applicant.

Relevant evidence

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

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

If an applicant cannot provide the PR document (or its equivalent) or its reference number, for example because the number is damaged or obscured, or the document never had one, you must check Home Office records (or liaise with the Islands) and, if there is no record available, contact the applicant for further details such as approximate date of issue to narrow any searches. If there is still no trace, the applicant must be invited to submit the document for you to consider. In these circumstances, you must discuss this with your senior caseworker.

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If the applicant has been subject to one of the decisions or orders in 'supervening event', you must discuss with your senior caseworker before further action is taken

Where an applicant has declared that they have a documented right of PR and they have not been absent from the UK and Islands for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence as set out above, but it is identified during the case working process that this is not the case, the applicant is not eligible for ILE or ILR under this condition.

Decision

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

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

If they do not meet the eligibility conditions in rule EU11 or EU14 and do not currently hold status under Appendix EU, you must consider their eligibility as a

joining family member of a relevant sponsor for ILE or ILR under rule EU11A or for 5 years' LTE or LTR under rule EU14A.

Scenario 1

Miss A has applied on the basis of having documented permanent residence and has supplied her valid permanent residence card. There is no evidence to suggest that her permanent residence has lapsed or that a supervening event has occurred in respect of the applicant. Miss A will be eligible for ILE or ILR.

Scenario 2

Mrs B applies and states that she has documented permanent residence, but information indicates that when she applied for her permanent residence document to be renewed her application was refused as she had been absent from the UK for more than 2 years since it was issued.

Evidence provided confirmed that Mrs B was out of the UK for 3 consecutive years and this does not therefore constitute a supervening event. Mrs B will be eligible for ILE or ILR.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Holders of indefinite leave to enter (ILE) or indefinite leave to remain (ILR) held since before the end of the transition period

Under condition 2 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that they are a relevant European Economic Area (EEA) citizen, a family member of a relevant EEA citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen, and there is valid evidence of their ILE or ILR, which they have held (other than under Appendix EU) since before the end of the transition period at 11pm GMT on 31 December 2020.

Requirements

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

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

And:

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

Relevant evidence

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

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

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

- an eVisa, a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007, and also referred to as a biometric residence permit), a valid stamp or endorsement in a passport (whether or not the passport has expired), or other valid document issued by the Home Office confirming that the applicant has ILE or ILR in the UK, which they have held since before the end of the transition period at 11pm GMT on 31 December 2020

- you are otherwise satisfied from the evidence or information available to you that the applicant has ILE or ILR in the UK or the Islands, which they have held since before the end of the transition period at 11pm GMT on 31 December 2020

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

The applicant must provide confirmation, via self-declaration within the application process, that their ILE or ILR has not lapsed through absence from the UK and Islands for a period of more than 2 consecutive years or been revoked or invalidated, and you must check this against Home Office systems and any documents provided.

You must contact the applicant to request evidence of residence in the UK and Islands (or that absence was permitted, as per Article 13A or 13B of the Immigration (Leave to Enter and Remain) Order 2000, as a partner or child accompanying on an overseas posting a member of HM Forces or a person employed on Crown service or as a permanent member of the British Council) since their ILE or ILR was granted, if it was granted more than 2 years ago and either:

- there is information on Home Office systems, or in any documentation provided, to suggest that the applicant's ILE or ILR may have lapsed through absence from the UK and Islands
- the applicant's immigration history shows previous illegal entry or deception

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Applicants unable to provide evidence of ILE or ILR

Where an applicant applies on the basis of having held ILE or ILR (other than under Appendix EU) since before the end of the transition period at 11pm GMT on 31 December 2020, but does not provide documentary evidence of this status, you must check Home Office records to confirm whether the Home Office holds any

information confirming the status being claimed by the applicant. Where Home Office records confirm the status, you must accept this as evidence of that status.

Applicants who claim to have an historical grant of ILE or ILR that they are unable to provide evidence of and which pre-dates current Home Office records may be able to apply under the Windrush Scheme to have their status checked and documented. See GOV.UK for information on undocumented Commonwealth citizens resident in the UK.

If the applicant is unable to provide any evidence of their status, and no such evidence exists in Home Office records, you are unable to grant the application under this condition.

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Where an applicant has declared that their ILE or ILR has not lapsed through absence from the UK and Islands for a period of more than 2 consecutive years or been revoked or invalidated but it is identified during the case working process that their status has, in fact, lapsed or been lost, you are unable to grant the application under this condition.

Decision

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

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

If they do not meet the eligibility conditions in rule EU11 or EU14 and do not currently hold status under Appendix EU, you must consider their eligibility as a joining family member of a relevant sponsor for ILE or ILR under rule EU11A or for 5 years' LTE or LTR under rule EU14A.

Scenario 1

Mr C is the non-EEA citizen spouse of an EEA citizen and has applied on the basis of having previously been granted ILR in the UK, which he has held since before the end of the transition period at 11pm GMT on 31 December 2020. He has provided his expired passport which contains a valid stamp confirming that he was granted ILR before the end of the transition period, along with evidence of his marriage to an

EEA citizen. There is no evidence to suggest that he has been absent from the UK for a period of more than 2 consecutive years. Mr C is eligible for ILR.

Scenario 2

Dr D, an EEA citizen, claims to have been granted ILR in the UK, which she has held since before the end of the transition period at 11pm GMT on 31 December 2020, but states that she has lost the appropriate document.

Home Office records confirm that Dr D was granted ILR before the end of the transition period as claimed and there is no evidence to suggest this has lapsed or been revoked or invalidated. Dr D is eligible for ILR.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Applicant has completed a continuous qualifying period of 5 years

Under condition 3 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that the applicant either:

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

And, in addition, both the following apply:

- the applicant has completed a continuous qualifying period of 5 years in any (or any combination) of the above categories
- since then no supervening event has occurred in respect of the applicant

Requirements

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

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

And you must be satisfied that, at the date of application, the applicant has completed a continuous qualifying period of 5 years which, unless they are the dependent relative of a specified relevant person of Northern Ireland, began before the specified date in any, or any combination of, those categories.

Under rule EU13, the reference in condition 3 in rule EU11 to the applicant completing a continuous qualifying period of 5 years which began before the specified date can include a period during which the applicant was a family member of a qualifying British citizen or a family member who has retained the right of residence by virtue of a relationship with a qualifying British citizen before becoming (as the case may be) a relevant EEA citizen, a family member of a relevant EEA citizen (or thereafter a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen), a person with a derivative right to reside or a person with a Zambrano right to reside.

In addition, you must be satisfied that since then no supervening event has occurred in respect of the applicant.

Relevant evidence

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

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

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

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

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

Decision

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

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

If they do not meet the eligibility conditions in rule EU11 or EU14 and do not currently hold status under Appendix EU, you must consider their eligibility as a joining family member of a relevant sponsor for ILE or ILR under rule EU11A or for 5 years' LTE or LTR under rule EU14A.

Scenario 1

Professor E, a French citizen, has been living in the UK continuously for the past 8 years. Automated checks from HMRC confirm that he has been working in the UK for 7 years. The data runs up to the month before his application, so it is not possible for him to have been absent for more than 5 consecutive years since then, and there is no evidence of any other supervening event in respect of the applicant. Professor E is eligible for ILR.

Scenario 2

Mrs F is the Brazilian spouse of an Italian citizen. Relationship and relevant identities are confirmed. She claims that both she and her spouse have been resident in the UK since 2012. Home Office records show her spouse was issued with a document certifying permanent residence in 2017 and automated checks show that Mrs F was employed from 2013-2015. Mrs F provides council tax bills for the period 2015-2018, dated and addressed to both her and her spouse. There is no evidence of a supervening event in respect of the applicant. Mrs F is eligible for ILR.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

A relevant EEA citizen who has ceased activity

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

- the applicant is a relevant European Economic Area (EEA) citizen who is a person who has ceased activity
- since they did so, no supervening event has occurred

Requirements

You must be satisfied that, at the date of application, the applicant is a relevant EEA citizen.

You must be satisfied that, at the date of application, the applicant is a person who has ceased activity. Further detail on this is set out below.

In addition, you must be satisfied that since the applicant became a person who has ceased activity, no supervening event has occurred.

Retired

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

- has terminated activity as a worker or self-employed person in the UK and either:
  - reached the age of entitlement to a state pension on terminating that activity
  - in the case of a worker, ceased working to take early retirement
- immediately before that termination was both:
  - a worker or self-employed person in the UK for at least 12 months
  - resident in the UK and Islands for a continuous qualifying period of more than 3 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date

The conditions above as to length of residence and of employment do not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EEA citizen is the spouse or civil partner of a British citizen. See assessing family relationship for the relevant evidence of that.

Relevant evidence

Evidence which may be relevant to the requirements above includes:

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

Permanent incapacity

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

- stopped being a worker or self-employed person in the UK owing to permanent incapacity to work and either:
  - having been resident in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date
  - the incapacity having resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK

The condition above as to length of residence does not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EEA citizen is the spouse or civil partner of a British citizen. See assessing family relationship for the relevant evidence of that.

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant was a worker or self-employed person in the UK - for example, employer's letter, wage slips, relevant information from HMRC
- evidence of their permanent incapacity to work - for example, a letter from their hospital consultant
- unless the applicant is the spouse or civil partner of a British citizen, evidence that they were resident in the UK and Islands for a continuous qualifying period of more than the preceding 2 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date (either from the

automated checks with HMRC and DWP or as provided by the applicant: see evidence of residence)

Or evidence that:

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

Worker or self-employed person who has retained a place of residence

You must be satisfied that, at the date of application, the applicant was resident in the UK for a continuous qualifying period of at least 3 years as a worker or self-employed person which, unless they are a specified relevant person of Northern Ireland, began before the specified date, immediately before becoming a worker or self-employed person in another EEA country. Also, they must have retained a place of residence in the UK to which they return, as a rule, at least once a week.

Being a ‘worker’ means that there is evidence which satisfies you that the applicant is either:

- a worker as defined in regulation 4(1) of the EEA Regulations
- a person who is no longer working but who continues to be treated as a worker within the meaning of “qualified person” under regulation 6

Being a ‘self-employed person’ means that there is evidence which satisfies you that the applicant is either:

- a self-employed person as defined in regulation 4(1) of the EEA Regulations
- a person who is no longer in self-employment but who continues to be treated as a self-employed person within the meaning of “qualified person” under regulation 6

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence of having resided in the UK for a continuous qualifying period of at least 3 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date (either from the automated checks with HMRC and DWP or as provided by the applicant: see evidence of residence)

- evidence of having been a worker or self-employed person in the UK for that period of at least 3 years - for example, employer's letter, pay slips, relevant information from HMRC
- evidence of becoming a worker or self-employed person in another EEA country immediately after leaving the UK. For example, employer's letter or pay slips
- evidence of retaining a place of residence in the UK, for example, utility bills
- evidence that the applicant returns to this place of residence, as a rule, at least once a week, for example travel tickets
- a self-declaration that they have not been absent from the UK and Islands for a period of more than 5 consecutive years since they became a person who has ceased activity

Decision

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

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

If they do not meet the eligibility conditions in rule EU11 or EU14 and do not currently hold status under Appendix EU, you must consider their eligibility as a joining family member of a relevant sponsor for ILE or ILR under rule EU11A or for 5 years' LTE or LTR under rule EU14A.

Scenario 1

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

Scenario 2

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

Scenario 3

Professor J, a Greek citizen, has applied on the basis of being a worker with a retained place of residence in the UK. She claims that she lived in the UK from 2012-

2016 and has since been working in Austria whilst returning to her house in the UK at least once a week.

The automated checks from HMRC show that she was employed in the UK for the period claimed, and she has provided payslips and bank statements evidencing her employment in Austria. Professor J has also provided utility bills for her address in the UK from 2016 to the date of application, and her travel history showing that she returns to the UK every weekend. There is no evidence of a supervening event. Professor J is eligible for ILR.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Family member of a relevant EEA citizen who is a person who has ceased activity

Under condition 5 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that, at the date of application, the requirements below are met.

Requirements

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

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

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

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

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

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

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

date and if they had made a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

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

Whatever the date of application, the applicant also needs to demonstrate that:

- they were resident in the UK and Islands for a continuous qualifying period which, unless they are the dependent relative of a specified relevant person of Northern Ireland, began before the specified date, immediately before the relevant EEA citizen became a person who has ceased activity
- since the relevant EEA citizen became a person who has ceased activity, no supervening event has occurred in respect of the applicant

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant is (or for the relevant period was) the family member of a relevant EEA citizen - see assessing family relationship for the relevant evidence of that

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

Decision

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

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

If they do not meet the eligibility conditions in rule EU11 or EU14 and do not currently hold status under Appendix EU, you must consider their eligibility as a joining family member of a relevant sponsor for ILE or ILR under rule EU11A or for 5 years' LTE or LTR under rule EU14A.

Scenario 1

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

Scenario 2

Mr L, a Mexican citizen, has applied at the same time as his wife, a Swedish citizen, who ceased activity in 2016. A marriage certificate has been provided to confirm the relationship and Mr L's Swedish spouse was previously granted ILR as an EEA citizen who has ceased activity. There is no evidence of a supervening event in respect of the applicant. Mr L is eligible for ILR.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Family member of a relevant EEA citizen who has died

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

Requirements

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

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

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant was the family member of a relevant EEA citizen before that EEA citizen died - see assessing family relationship for the relevant evidence of that
- the death certificate of the relevant EEA citizen or other evidence you are satisfied evidences the death
- evidence that the relevant EEA citizen was resident in the UK as a worker or self-employed person at the time of their death - for example, employer's letter, wage slips, relevant information from HM Revenue and Customs (HMRC)
- evidence that the relevant EEA citizen was resident in the UK and Islands for a continuous qualifying period of at least 2 years which, unless they were a specified relevant person of Northern Ireland, began before the specified date, immediately before their death (see evidence of residence), or the death was the result of an accident at work or an occupational disease (such as a letter from a qualified medical professional, for example a hospital consultant or GP)
- evidence that that the applicant was resident in the UK with the relevant EEA citizen when they died

- a self-declaration by the applicant that they have not been absent from the UK and Islands for a period of more than 5 consecutive years since the relevant EEA citizen died

Decision

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

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

If they do not meet the eligibility conditions in rule EU11 or EU14 and do not currently hold status under Appendix EU, you must consider their eligibility as a joining family member of a relevant sponsor for ILE or ILR under rule EU11A or for 5 years' LTE or LTR under rule EU14A.

Scenario 1

Mrs M is a Sri Lankan citizen, who was married to a Danish citizen. Both were employed together in the UK for 10 years and she has provided evidence to show they had resided together in the UK continuously since they were married 13 years ago. Mr M passed away in 2016. Mrs M has provided a marriage certificate and Mr M's passport and death certificate. Mrs M has also provided Mr M's pay slips, which confirm that he was in employment immediately before his death in 2016. There is no evidence of a supervening event. Mrs M is eligible for ILR.

Scenario 2

Dr N is a Brazilian citizen who was married to Mr N, a French citizen who had been residing and working in the UK for 6 years. Dr N has provided a death certificate and hospital consultant's letter confirming Mr N died after contracting an occupational disease. Dr N has also provided a marriage certificate and Mr N's French ID card. P60s confirm Mr N's employment as claimed and there is no evidence of a supervening event. Dr N is eligible for ILR.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016

Child under the age of 21 of a relevant EEA citizen or of their spouse or civil partner

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

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

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

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

Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
    - where they are a British citizen or a British citizen and an Irish citizen, and if they had made a valid application under Appendix EU before 1 July 2021, they would, but for the fact that they are a British citizen, have been granted ILE or ILR under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
- is a person exempt from immigration control, who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted ILE or ILR under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
- is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU)

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

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

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

Relevant evidence

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

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

the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
    - where they are a British citizen or a British citizen and an Irish citizen, they would, but for the fact that they are a British citizen, have been granted ILE or ILR under paragraph EU2 of Appendix EU, if they had made a valid application under Appendix EU before 1 July 2021 - for example, their valid Irish passport or national identity card and / or their valid British passport, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date
- if the child's parent (or their spouse or civil partner) is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU), evidence they would, were they not a British citizen, have been granted ILE or ILR under paragraph EU2 if they had made a valid application under Appendix EU before 1 July 2021 - for example, their valid passport or national identity card as an EEA citizen, evidence that they are a British citizen and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
- where the date of application is on or after 1 July 2021, it also includes evidence that either:
    - the relevant EEA citizen (or their spouse or civil partner) has been granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands)
    - if the child's parent (or their spouse or civil partner) is an Irish citizen, evidence they would have been granted ILE or ILR under paragraph EU2 of Appendix EU if they had made a valid application under that Appendix before 1 July 2021 - for example, their valid passport or national identity card and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
    - if the child's parent (or their spouse or civil partner) is a relevant naturalised British citizen (in accordance with sub-paragraphs (a), (c) and (d) of that definition in Annex 1 to Appendix EU), evidence they would, were they not a British citizen, have been granted ILE or ILR under paragraph EU2 if they had made a valid application under Appendix EU before 1 July 2021 - for example, their valid passport or national identity card as an EEA citizen, evidence that they are a British citizen and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
- if the relevant EEA citizen is a relevant person of Northern Ireland, either:
    - where they are an Irish citizen, evidence they have been granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) or would have been granted ILE or ILR under that paragraph, if they had made a valid application under Appendix EU before 1 July 2021 - for example, the reference number for their application under the scheme where they have been granted ILE or ILR under paragraph EU2 of Appendix EU; or their valid Irish passport or national identity card, evidence that they are a relevant person of Northern Ireland (see Family members of the people of

Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
- where they are a British citizen or a British citizen and an Irish citizen, they would, but for the fact that they are a British citizen, have been granted ILE or ILR under paragraph EU2 of Appendix EU, if they had made a valid application under Appendix EU before 1 July 2021 - for example, their valid Irish passport or national identity card and / or their valid British passport, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date

Decision

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

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

If they do not meet the eligibility conditions in rule EU11 or EU14 and do not currently hold status under Appendix EU, you must consider their eligibility as a joining family member of a relevant sponsor for ILE or ILR under rule EU11A or for 5 years' LTE or LTR under rule EU14A.

Scenario 1

Miss O, a 12 year old Argentinian citizen, has applied as the daughter of Mrs O, a Portuguese citizen. Miss O has provided her birth certificate which confirms her relationship to Mrs O and Mrs O's reference number confirming a grant of ILR under the scheme, which has been confirmed by Home Office records. Miss O is eligible for ILR.

Scenario 2

Mr P, a 16 year old Ecuadorian citizen, has applied as the son of Ms P, who is in a civil partnership with Ms Q, a Polish citizen. A birth certificate and civil partnership certificate have been produced to confirm both relationships are as claimed, and Ms Q's passport confirms that she is a Polish citizen.

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

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Family member who has retained the right of residence

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

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

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

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

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

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

Where the applicant is an EEA citizen or non-EEA citizen without a documented right of permanent residence who relies on being (or for the relevant period on having been) a family member who has retained the right of residence by virtue of a

relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor), the applicant will need to provide:

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

You can agree to accept alternative evidence of the identity and nationality of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or to compelling practical or compassionate reasons. For example, in cases where you are satisfied that there has been a permanent breakdown in the relationship between the applicant and the relevant EEA citizen (or qualifying British citizen or relevant sponsor), it may not be possible for the applicant to obtain or produce the required document.

You must consider each case on its merits as to whether you are satisfied that the applicant cannot obtain or produce the required document, having made every reasonable effort to do so or having shown why it is not possible for them to do so. For further guidance, see Alternative evidence of identity and nationality or of entitlement to apply from outside the UK.

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

- evidence about the residence or status of the relevant EEA citizen (or about the residence of the qualifying British citizen or the residence or status of the relevant sponsor) – see other evidence in assessing family relationship – which satisfies you either that:
  - the EEA citizen (was a relevant EEA citizen throughout any continuous qualifying period on which the applicant relies as being a family member of a relevant EEA citizen
  - the EEA citizen (or British citizen) was a relevant sponsor (or a qualifying British citizen) throughout any continuous qualifying period on which the applicant relies as being a joining family member of a relevant sponsor (or a family member of a qualifying British citizen)

You must take a flexible and pragmatic approach, particularly where you are satisfied that there has been a permanent breakdown in the relationship between the applicant and the relevant EEA citizen (or qualifying British citizen or relevant sponsor). Each case must be dealt with on its own merits and on a case by case basis, in consultation with your senior caseworker.

In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant in order to obtain the required

evidence on a case by case basis, and in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

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

Requirements

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

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

Relevant evidence

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

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

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

Requirements

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

- are the child of a relevant EEA citizen (or qualifying British citizen or relevant sponsor) who has died or ceased to reside in the UK, or of their spouse or civil partner at that point
- where attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant EEA citizen (or qualifying British citizen or relevant sponsor) died or ceased to reside in the UK, and they continue to do so

Relevant evidence

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

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

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

Requirements

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

- they are the parent with custody of a child who has retained the right of residence because a relevant EEA citizen (or qualifying British citizen) has died or ceased to reside in the UK
- the child was attending a general educational course, apprenticeship or vocational training course in the UK immediately before the EEA citizen (or

qualifying British citizen) died or ceased to reside in the UK, and the child continues to do so
- the child is not a joining family member of a relevant sponsor

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

Relevant evidence

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

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

The marriage or civil partnership with a relevant EEA citizen (or qualifying British citizen or relevant sponsor) has been terminated

Requirements

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

- they ceased to be a family member of a relevant EEA citizen (or of a qualifying British citizen), or a joining family member of a relevant sponsor, on the termination of the marriage or civil partnership of that relevant EEA citizen (or of that qualifying British citizen or relevant sponsor), regardless of whether, after the initiation of the proceedings for that termination, the relevant EEA citizen ceased to be a relevant EEA citizen (or the qualifying British citizen ceased to

be a qualifying British citizen or the relevant sponsor ceased to be a relevant sponsor)
- they were resident in the UK at the date of the termination of the marriage or civil partnership

And (where the applicant is a non-EEA citizen) one of the following applies, either:

- before the initiation of the proceedings for the termination of the marriage or civil partnership, the marriage or civil partnership had lasted for at least 3 years, and the parties to the marriage or civil partnership had been resident in the UK for a continuous qualifying period of at least 1 year during its duration
- the applicant has custody of a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor)
- the applicant has the right of access to a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor), where the child is under the age of 18 years and where a court has ordered that such access must take place in the UK
- the applicant's continued right of residence in the UK is warranted by particularly difficult circumstances, such as where they or another family member has been a victim of domestic violence or abuse whilst the marriage or civil partnership was subsisting

Relevant evidence

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

- the court order terminating the marriage or civil partnership
- evidence that the applicant was resident in the UK at the date of the termination

Where the applicant is a non-EEA citizen applying on the basis that the marriage or civil partnership of the relevant EEA citizen (or of the qualifying British citizen or relevant sponsor) lasted for at least 3 years before legal proceedings for its termination began, and the parties to the marriage or civil partnership were resident in the UK for a continuous qualifying period of at least one year during its duration, evidence which may be relevant to those requirements also includes:

- evidence of the marriage or civil partnership of the relevant EEA citizen (or qualifying British citizen or relevant sponsor), for example a marriage or civil partnership certificate
- evidence that prior to the initiation of the legal proceedings for its termination, the marriage or civil partnership had lasted for at least 3 years
- evidence that the parties to the marriage or civil partnership were resident in the UK for a continuous qualifying period of at least one year during its duration

You also need to be satisfied that the applicant, whether they are an EEA or non-EEA citizen, met the definition of a family member of a relevant EEA citizen (or of a qualifying British citizen), or of a joining family member of a relevant sponsor, for the

period of residence, before the termination of the marriage or civil partnership, on which they are seeking to rely (such as for the period prior to them meeting the definition of a family member who has retained the right of residence). See assessing family relationship for the relevant evidence of that.

Where the applicant is a non-EEA citizen applying on the basis that they have custody of a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor) or the right of access to a child of the relevant EEA citizen (or qualifying British citizen or relevant sponsor), evidence which may be relevant to those requirements also includes either:

- evidence that they have custody of the child, including either:
  - evidence that the child normally lives with the applicant
  - evidence that the child lives with the applicant part of the time
  - evidence of informally agreed arrangements regarding the child's care
  - where the child is subject to a court order, evidence of this and the determination as to whom the child should live with and when
- evidence that they have the right of access to a child under the age of 18, including:
  - a court order in respect of that right of access that states that such access must take place in the UK

Where the applicant is a non-EEA citizen applying on the basis that their continued right of residence in the UK is warranted by particularly difficult circumstances, such as domestic violence or abuse whilst the marriage or civil partnership was subsisting, you will also need to see relevant information or evidence about this from the applicant. You must take a flexible and pragmatic approach. Each case must be dealt with on its own merits and on a case by case basis, in consultation with your senior caseworker. For further guidance regarding domestic violence or abuse, see the next section.

In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant on a case by case basis, and in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

A relevant family relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor) has broken down permanently as a result of domestic violence or abuse

Requirements

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

- they are an EEA or non-EEA citizen who provides evidence that a relevant family relationship with a relevant EEA citizen (or with a qualifying British citizen

or relevant sponsor) has broken down permanently as a result of domestic violence or abuse
- they were resident in the UK when the relevant family relationship broke down permanently as a result of domestic violence or abuse, and the continued right of residence in the UK of the applicant is warranted where the applicant or another family member has been a victim of domestic violence or abuse before the relevant family relationship broke down permanently

'Relevant family relationship' means a family relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor) such that the applicant is, or (immediately before the relevant family relationship broke down permanently as a result of domestic abuse) was, a family member of a relevant EEA citizen (or of a qualifying British citizen) or a joining family member of a relevant sponsor. For further guidance see assessing family relationship.

This means that the applicant can be a victim of domestic violence or abuse or a relevant family member of the victim.

Where, following the permanent breakdown of the relevant family relationship as a result of domestic violence or abuse, the applicant remains a family member of a relevant EEA citizen (or of a qualifying British citizen), or a joining family member of a relevant sponsor, they will be deemed to have ceased to be such a family member for the purposes of Appendix EU once the permanent breakdown occurred. They can rely instead from that point on being a family member who has retained the right of residence.

This means that the applicant does not need to meet the requirements of Appendix EU as a family member of a relevant EEA citizen (or of a qualifying British citizen), or as a joining family member of a relevant sponsor, from that point on.

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

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

Relevant evidence

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

- evidence that demonstrates that the relevant family relationship broke down permanently as a result of domestic violence or abuse
- evidence that the applicant was resident in the UK when the relevant family relationship broke down permanently as a result of domestic violence or abuse

You need to see evidence that demonstrates that the relevant family relationship broke down permanently as a result of domestic violence or abuse. You need to be satisfied both that the relevant family relationship has broken down permanently and that this is as a result of domestic violence or abuse. See the examples of relevant evidence below, but this is not exhaustive. You must take a flexible and pragmatic approach. Each case must be dealt with on its own merits and on a case by case basis in consultation with your senior caseworker. For guidance on types of domestic violence or abuse see Victims of domestic violence and abuse.

Neither Appendix EU nor any other parts of the Immigration Rules specify any mandatory evidence to be submitted with an application to demonstrate that a relevant family relationship has broken down permanently as a result of domestic violence or abuse. All the evidence must be considered and a conclusion drawn as to whether there is sufficient evidence to demonstrate that, on the balance of probabilities, the relevant family relationship broke down permanently as a result of domestic violence or abuse.

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

- the length of time since the alleged incident or incidents of domestic violence or abuse and any reasons given for this - for example, the applicant's family member may have retained their documents or failed to tell them about their immigration status as part of the abuse - some individuals may not have realised that they were experiencing domestic abuse or may not have known how or where to get support
- a person may hold pre-settled status before their relationship broke down as a result of domestic violence or abuse, and where they apply later for settled status, the length of time since then may make it difficult for them to obtain certain evidence, for example from support services for victims of domestic violence or abuse which they accessed at the time - you must look at the reasons given for this and take a flexible and pragmatic approach to considering the application
- the fact that the applicant and the perpetrator of domestic violence or abuse may still be living at the same address when the application is made may not necessarily be taken as an indicator the relationship has not broken down permanently, as this could be due to a number of reasons - for example, the victim's lack of knowledge of, or access to safety and support, their fear of losing custody of any children, their fear for their or their children's safety, a lack of means to support themselves or their children financially, or religious or cultural beliefs or practices
- previous immigration history, particularly where there is evidence that the applicant has made a number of attempts to secure leave to remain in the UK on different grounds

For guidance on the type of evidence which may be produced and factors which are to be taken into account when considering whether the evidence is sufficient to demonstrate that, on the balance of probabilities, the relevant family relationship broke down permanently as a result of domestic violence or abuse, see the table of evidence for this in Victims of domestic violence and abuse. This is not exhaustive and all the evidence must be considered in the round.

In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant on a case by case basis, and in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

Under section 55 of the Borders, Citizenship and Immigration Act 2009, the Home Office has a duty to have regard to the need to safeguard and promote the welfare of children under the age of 18 who are in the UK. If you have concerns about a child who has applied to the scheme or in respect of whom an application has been made, see Applications in respect of children for further guidance.

A spouse, civil partner or durable partner under Appendix EU with pre-settled status under the EU Settlement Scheme (limited leave to enter or remain under Appendix EU) as a family member of a relevant EEA citizen (or of a qualifying British citizen), as a joining family member of a relevant sponsor or as a family member who has retained the right of residence, whose relationship has broken down permanently as a result of domestic violence or abuse, can apply for the Migrant Victims of Domestic Abuse Concession or for permission to settle in the UK permanently under Appendix Victim of Domestic Abuse.

Where an EU, other EEA or Swiss citizen, or their family member (including a joining family member or a family member who has retained the right of residence by virtue of a relationship with them), with extant pre-settled status obtains leave under the Migrant Victims of Domestic Abuse Concession or Appendix Victim of Domestic Abuse, they will retain their pre-settled status under the EUSS. They can apply for settled status under the EU Settlement Scheme (indefinite leave to enter or remain under Appendix EU) once they are eligible to do so on the basis of their continuous residence in the UK. For further information see Appendix Victim of Domestic Abuse.

Where a family member of a qualifying British citizen had extant pre-settled status before obtaining leave under the Migrant Victims of Domestic Abuse Concession or Appendix Victim of Domestic Abuse, although they will not retain their pre-settled status, they can apply for settled status under the EU Settlement Scheme (indefinite leave to enter or remain under Appendix EU) once they are eligible to do so on the basis of their continuous residence in the UK. See Concession for certain family members of a qualifying British citizen.

Related content
Contents
Victims of domestic violence and abuse

Related external links
Appendix EU to the Immigration Rules

Joining family member of a relevant sponsor who has completed a continuous qualifying period of 5 years

Under condition 1 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that the applicant either:

- is (or for the relevant period was) a joining family member of a relevant sponsor
- is (or for the relevant period was) a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor

And, in addition, all the following apply:

- the applicant has completed a continuous qualifying period of 5 years which began after the specified date, in either (or any combination) of the above categories
- since then, no supervening event has occurred in respect of the applicant

Requirements

You must be satisfied that, at the date of application and in an application made after the specified date, that the applicant either:

- is (or for the relevant period was) a joining family member of a relevant sponsor
- is (or for the relevant period was) a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor

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

In addition, you must be satisfied that since then no supervening event has occurred in respect of the applicant.

Relevant evidence

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

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

The applicant will be invited by the application process to provide evidence that confirms that they have completed a continuous qualifying period of residence in the UK and Islands (or, where applicable, the UK) of 5 years which began after the specified date. See evidence of residence for examples of evidence of residence an applicant may produce.

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

Decision

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years' limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Joining family member of a relevant sponsor who is a person who has ceased activity

Under condition 2 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that, at the date of application, the requirements below are met.

Requirements

You must be satisfied that, at the date of application and in an application made after the specified date, all the following requirements are met:

- the applicant is (or as the case may be) a joining family member of a relevant sponsor who is a person who has ceased activity
- the applicant was such a joining family member at the point the relevant sponsor became a person who has ceased activity

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

- a European Economic Area (EEA) citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, either:
  - has been granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or is being granted that leave under that paragraph of this Appendix or under its equivalent in the Islands)
  - would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted ILE or ILR under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
- a relevant person of Northern Ireland in accordance with that definition in Annex 1 to Appendix EU and, having been resident in the UK and Islands for a continuous qualifying period which, unless they are a specified relevant person of Northern Ireland, began before the specified date, either:
  - where they are an Irish citizen, they have been granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) which has not lapsed or been cancelled, revoked or invalidated (or are being granted that leave under that paragraph of Appendix EU or under its equivalent in the Islands) or would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted ILE or ILR under that paragraph of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

    - where they are a British citizen or a British citizen and an Irish citizen, and if they had made a valid application under Appendix EU before 1 July 2021, they would, but for the fact that they are a British citizen, have been granted ILE or ILR under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
- a person exempt from immigration control who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, would, if they had made a valid application under Appendix EU before 1 July 2021, have been granted ILE or ILR under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application
- is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU)

Where the date of application is on or after 1 July 2021, you must also be satisfied that the relevant sponsor is either:

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

with that definition in Annex 1 to Appendix EU, and who is a British citizen, or a British citizen and an Irish citizen, who, having been resident in the UK and Islands for a continuous qualifying period which, unless they are specified relevant person of Northern Ireland, began before the specified date and if they had made a valid application under Appendix EU before 1 July 2021, would, but for the fact that they are a British citizen, have been granted ILE or ILR under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

- a person exempt from immigration control who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date and if they had made a valid application under Appendix EU before 1 July 2021, would have been granted ILE or ILR under paragraph EU2 of Appendix EU, which would not have lapsed or been cancelled, revoked or invalidated before the date of application

Whatever the date of application, the applicant also needs to demonstrate both that:

- they were resident in the UK and Islands for a continuous qualifying period which began after the specified date, immediately before the relevant sponsor became a person who has ceased activity
- since the relevant sponsor became a person who has ceased activity, no supervening event has occurred in respect of the applicant

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant is (or for the relevant period was) the family member of a relevant sponsor - see assessing family relationship for the relevant evidence of that
- evidence that the relevant sponsor is a person who has ceased activity and that the applicant was their family member when they did so - see ceased activity for the relevant evidence of that
- evidence that the relevant sponsor:
  - has been or (where the date of application is before 1 July 2021) is being granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) or (but for the fact that, where they are, they are a British citizen) would have been granted that leave under paragraph EU2 if they had made a valid application under Appendix EU before 1 July 2021 - for example, the relevant application reference number where they have applied under the scheme
  - is a relevant person of Northern Ireland
  - is a relevant naturalised British citizen
  - is a person who is exempt from immigration control
- evidence that the applicant was resident in the UK and Islands for a continuous qualifying period which began after the specified date, immediately before the relevant sponsor became a person who has ceased activity

- a self-declaration that the applicant has not been absent from the UK and Islands for a period of more than 5 consecutive years since the relevant sponsor became a person who has ceased activity

Decision

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years' limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Joining family member of a relevant sponsor who has died

Under condition 3 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that, at the date of application and in an application made after the specified date, the requirements below are met.

Requirements

You must be satisfied that, at the date of application and in an application made after the specified date, all the following requirements are met:

- the applicant is a joining family member of a relevant sponsor who has died
- the applicant was resident in the UK with the relevant sponsor after the specified date and immediately before their death
- the relevant sponsor was resident in the UK as a worker or self-employed person at the time of their death
- the relevant sponsor was resident in the UK and Islands for a continuous qualifying period of at least 2 years which, unless they were a specified relevant person of Northern Ireland, began before the specified date, immediately before dying, or the death was the result of an accident at work or an occupational disease
- since the death of the relevant sponsor, no supervening event has occurred

Relevant evidence

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant was the joining family member of a relevant sponsor before the relevant sponsor died – see assessing family relationship for the relevant evidence of that
- the death certificate of the relevant sponsor or other evidence you are satisfied evidences the death
- evidence that the relevant sponsor was resident in the UK as a worker or self-employed person at the time of their death – for example, employer's letter, wage slips, relevant information from HM Revenue and Customs (HMRC)
- evidence that the relevant sponsor was resident in the UK and Islands for a continuous qualifying period of at least 2 years which, unless they are a specified relevant person of Northern Ireland, began before the specified date, immediately before their death (see evidence of residence), or the death was the result of an accident at work or an occupational disease (such as a letter from a qualified medical professional, for example a hospital consultant or GP)
- evidence that that the applicant was resident in the UK with the relevant sponsor immediately before they died

- a self-declaration by the applicant that they have not been absent from the UK and Islands for a period of more than 5 consecutive years since the relevant sponsor died

Decision

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years' limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Joining family member who is a child under the age of 21 years of a relevant sponsor or of their spouse or civil partner

Under condition 4 in rule EU11A the applicant meets the eligibility requirements for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) where you are satisfied that either:

- the applicant is a joining family member of a relevant sponsor and is a child under the age of 21 of the relevant sponsor, and the relevant sponsor meets the relevant requirements set out below
- the applicant is a joining family member of a relevant sponsor and is a child under the age of 21 of the spouse or civil partner of the relevant sponsor, where the marriage was contracted or the civil partnership was formed before the specified date (or the spouse or civil partner was the durable partner of the relevant sponsor before the specified date and the partnership remained durable at the specified date) and the spouse or civil partner has been or is being granted indefinite leave to enter or remain under paragraph EU2 of Appendix EU (as the family member of a relevant European Economic Area (EEA) citizen, who is the relevant sponsor)
- the applicant is a joining family member of a relevant sponsor and is a child under the age of 21 of the spouse or civil partner of the relevant sponsor, and the spouse or civil partner meets the requirements of the first sub-paragraph (a), together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii), of the definition of 'joining family member of a relevant sponsor' in Annex 1 to Appendix EU, and the spouse or civil partner has been or is being granted indefinite leave to enter or remain under paragraph EU2A of Appendix EU (as a joining family member of the relevant sponsor)

Requirements

Where the date of application is before 1 July 2021, where the applicant relies on being a joining family member of a relevant sponsor and a child under the age of 21 years of the relevant sponsor, you must be satisfied that, at the date of application and in an application made after the specified date, both:

- the applicant is a child under the age of 21 of the relevant sponsor (see assessing family relationship)
- the relevant sponsor is:
  - an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands), which has not lapsed or been cancelled, revoked

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

Where the date of application is on or after 1 July 2021, where the applicant relies on being a joining family member of a relevant sponsor and a child under the age of 21 years of the relevant sponsor, you must be satisfied that, at the date of application, both:

- the applicant is a child under the age of 21 of the relevant sponsor (see assessing family relationship)
- the relevant sponsor is:
    - an EEA citizen (in accordance with sub-paragraph (a) of that definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands for a continuous qualifying period which began before the specified date, has been granted ILE or ILR under paragraph EU2 of Appendix EU (or under its

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

Whatever the date of application, where the applicant relies on being a joining family member of a relevant sponsor and a child under the age of 21 years of the spouse or civil partner of the relevant sponsor, you must be satisfied that, at the date of application and in an application made after the specified date, either:

- they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
    - meets the requirements of sub-paragraph (a) of the definition of ‘family member of a relevant EEA citizen’ in Annex 1 to Appendix EU, substituting

'relevant sponsor' for each reference in that sub-paragraph to 'relevant EEA citizen'
    - has been or is being granted ILE or ILR under paragraph EU2 of Appendix EU
- they are a child under the age of 21 of the spouse or civil partner of the relevant sponsor (see assessing family relationship) and the spouse or civil partner both:
    - meets the requirements of the first sub-paragraph (a), together with either the second sub-paragraph (a) or sub-paragraph (b)(i) or (b)(ii), of the definition of 'joining family member of a relevant sponsor' in Annex 1 to Appendix EU
    - has been or is being granted ILE or ILR under paragraph EU2A of Appendix EU

Relevant evidence

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

It also includes evidence that either:

- the child's parent has been or is being granted ILE or ILR under paragraph EU2 of Appendix EU or (where the parent is a joining family member of the relevant sponsor) under paragraph EU2A of Appendix EU
- if the child's parent (or their spouse or civil partner) is an Irish citizen, evidence that they would have been granted ILE or ILR under paragraph EU2 if they had made a valid application under Appendix EU before 1 July 2021. For example, their valid passport or national identity card as an Irish citizen and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
- if the relevant sponsor is a relevant person of Northern Ireland, either:
    - where they are an Irish citizen, evidence that they have been or (where the date of application is before 1 July 2021) are being granted ILE or ILR under paragraph EU2 of Appendix EU (or under its equivalent in the Islands) or would have been granted that leave under that paragraph, if they had made a valid application under Appendix EU before 1 July 2021 - for example, the reference number for their application under the scheme, or their valid Irish passport or national identity card, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date
    - where they are a British citizen or a British citizen and an Irish citizen, evidence that they would, but for the fact that they are a British citizen, have been granted ILE or ILR under paragraph EU2 of Appendix EU, if they had made a valid application under Appendix EU before 1 July 2021 - for example, their valid Irish passport or national identity card and / or their valid British passport, evidence that they are a relevant person of Northern Ireland (see Family members of the people of Northern Ireland) and evidence of a continuous qualifying period of residence in the UK of 5 years which, unless

they are a specified relevant person of Northern Ireland, began before the specified date

- if the child's parent (or their spouse or civil partner) is a relevant naturalised British citizen (in accordance, where the date of application is before 1 July 2021, with sub-paragraphs (b), (c) and (d) - and, where the date of application is on or after 1 July 2021, with sub-paragraphs (a), (c) and (d) - of that definition in Annex 1 to Appendix EU), evidence that they would, but for the fact that they a British citizen, have been granted ILE or ILR under paragraph EU2 of Appendix EU if they had made a valid application under Appendix EU before 1 July 2021 - for example, their valid passport or national identity card as an EEA citizen, evidence that they are a British citizen and evidence of a continuous qualifying period of residence in the UK of 5 years which began before the specified date

Decision

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

If you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILE or ILR under the other eligibility conditions in rule EU11A. Otherwise, you must consider their eligibility for 5 years' limited leave to enter (LTE) or limited leave to remain (LTR) under the condition in rule EU14A.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Consideration of applications: 5 years' limited leave to enter (LTE) or limited leave to remain (LTR)

Relevant EEA citizens and family members

Under rule EU14, an applicant will meet the eligibility requirements for leave to enter (LTE) or leave to remain (LTR) where you are satisfied, including (where applicable) by the required evidence of family relationship, that at the date of application:

- the applicant is:
  - a relevant European Economic Area (EEA) citizen
  - a family member of a relevant EEA citizen
  - a family member who has retained the right of residence by virtue of a relationship with a relevant EEA citizen
  - a person with a derivative right to reside
  - a person with a Zambrano right to reside
- the applicant is not eligible for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) under paragraph EU11 of Appendix EU solely because they have completed a continuous qualifying period of residence of less than 5 years
- where the applicant is a family member of a relevant EEA citizen, there has been no supervening event in respect of the relevant EEA citizen

Relevant evidence

You must be satisfied that the applicant meets the eligibility criteria for ILE or ILR of condition 3 in rule EU11, as set out in this guidance, save that they have not completed a continuous qualifying period of 5 years.

Automated checks will be undertaken with HM Revenue and Customs (HMRC) and Department for Work and Pensions (DWP) which may provide evidence that the applicant has completed a continuous qualifying period of residence in the UK of less than 5 years.

Should these checks not provide any evidence of residence in the UK, the applicant must be invited to provide evidence that confirms that they have completed a continuous qualifying period of residence in the UK. See consideration of applications: eligibility and see evidence of residence for examples of the forms of evidence that they may provide to do so.

Joining family members of relevant sponsors

Under rule EU14A, an applicant will meet the eligibility requirements for LTE or LTR as a joining family member of a relevant sponsor where you are satisfied, including

by the required evidence of family relationship, that, at the date of application and in an application made after the specified date:

- the applicant is either:
  - a joining family member of a relevant sponsor
  - a family member who has retained the right of residence by virtue of a relationship with a relevant sponsor
- the applicant is not eligible for either:
  - ILE under paragraph EU11A of Appendix EU, where the application is made outside the UK
  - ILR under paragraph EU11A of Appendix EU, where the application is made within the UK, solely because they have completed a continuous qualifying period of less than 5 years which began after the specified date
- where the applicant is a joining family member of a relevant sponsor, there has been no supervening event in respect of the relevant sponsor

Relevant evidence

Where the application is made outside the UK, you must be satisfied that the applicant does not meet the eligibility criteria for ILE under rule EU11A of Appendix EU and that the applicant meets the eligibility criteria for LTE under rule EU14A of Appendix EU.

Where the application is made within the UK, you must be satisfied that the applicant meets the eligibility criteria for ILR under condition 1 in rule EU11A, as set out in this guidance, save that they have not completed a continuous qualifying period of 5 years which began after the specified date.

Where they have not done so and the application is made within the UK, the applicant must be invited to provide evidence that confirms that they have completed a continuous qualifying period of residence in the UK which began after the specified date. See consideration of applications: eligibility and see evidence of residence for examples of the forms of evidence that they may provide to do so.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, they will be eligible for LTE or LTR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, the application must be refused. For further information, see refusals section.

Official – sensitive: start of section

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

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

Official – sensitive: end of section

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Consideration of applications: eligibility

Where an applicant, who does not fall to be refused on grounds of suitability, needs to provide more information or evidence than the application contains of their eligibility for indefinite leave to enter or remain or limited leave to enter or remain under Appendix EU, you must attempt to contact the applicant under the standard process or (where it applies as set out below) the truncated process.

Standard process

You must make 3 attempts in total over a minimum of 3 weeks to contact the applicant. The first 2 contacts may be made concurrently by 2 different methods (where the applicant has provided the relevant contact details) – from, ordinarily, telephone call, text, email, letter – and must include the applicant's preferred method of contact, where this has been specified as part of the application. You must give the applicant a reasonable opportunity in which to provide more information or evidence, after which a third and final attempt must be made, giving the applicant a response time of a further 7 calendar days.

You can exceed that number of attempts at contact where, following consultation with your senior caseworker, you are satisfied that there is good reason to do so in the circumstances of the case. All attempts at contact must be recorded.

If the applicant makes clear that they are unable or unwilling to provide more information or evidence, you must decide the application on the basis of all the information and evidence before you.

A 'reasonable opportunity in which to provide more information or evidence' means, subject to the next paragraph, 14 calendar days, from the date of the attempted contact (or the date on which you discussed the matter with the applicant), in which to provide the information or evidence specified in your request (or which you discussed with the applicant). Where the attempted contact is by letter sent by Royal Mail Tracked24 post, you may assume delivery on the second business day after the date of postage.

You may provide longer than 14 calendar days where, following consultation with your senior caseworker, you are satisfied that there is good reason to do so in the particular circumstances of the case.

Truncated process

The standard contact process is truncated where the applicant has submitted either:

- fraudulent evidence of their eligibility for status under the EU Settlement Scheme (for example in respect of UK residence or family relationship) which is relevant to the decision on their application
- a late application with no evidence of their eligibility for status under the scheme and they have no footprint in the UK under the automated checks with HM Revenue & Customs and the Department for Work and Pensions

- an in-time or late further application where the applicant had already made an application to the scheme since being notified that their limited leave to enter or remain (pre-settled status) under Appendix EU was granted in error, and that application was refused and no new evidence has been provided.

In such cases, you must contact the applicant, by their preferred method of contact (where stated), and give them 7 calendar days in which to provide relevant evidence of their eligibility for status (or to provide compelling practical or compassionate reasons why they need more time in which to do so). Where the second bullet point immediately above applies, you can provide longer than 7 calendar days where, following consultation with your senior caseworker, you are satisfied that there is good reason to do so in the circumstances of the case.

Where the first bullet point immediately above applies, it does not require that you establish whether there has been material deception in relation to the application (as under rule EU16(a)), and does not apply where the fraudulent evidence is not relevant to the decision on the application because the applicant has also submitted sufficient genuine evidence of their eligibility for status.

All cases

When contacting the applicant by telephone, you must, if possible, leave a voicemail if the applicant does not respond. Where it is not possible to leave a voicemail, this will not count as a contact and you must make another telephone call or, if this also fails, use another means of contact.

Once the final deadline you have given the applicant to provide more information or evidence (or to contact you to discuss this) has passed, you must consider and decide the application on the basis of all the information and evidence before you, including any further information or evidence the applicant has provided.

Throughout this process of engagement with the applicant, you may exercise discretion in their favour where appropriate, to minimise administrative burdens.

In consultation with a senior caseworker, you can, where necessary and appropriate, make reasonable enquiries on behalf of the applicant on a case by case basis, and in line with the General Data Protection Regulation (GDPR) and other data sharing protocols, where an applicant is having difficulty in proving their eligibility.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Consideration under Annex 2 of Appendix EU

A valid application made under Appendix EU, and any issue as to whether a person granted limited leave to enter or remain under Appendix EU continues to meet the eligibility requirements for that leave which they met at the date of application (or meets other eligibility requirements for limited leave to enter or remain, or the eligibility requirements for indefinite leave to enter or remain, under Appendix EU), will be decided on the basis of:

- the information and evidence provided by the person, including in response to any request by you for further information or evidence
- any other information or evidence made available to you (including from other government departments) at the date of decision

Requesting further information or evidence and interviewing

When deciding whether the person meets the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain, you may:

- request that they provide further information or evidence that they meet the requirements for indefinite leave to enter or remain or limited leave to enter or remain
- invite them to be interviewed in person, by telephone, by video-telecommunications link or over the internet

If the person claims to be eligible for a grant of indefinite to enter or remain or limited leave to enter or remain on the basis of a relationship with another person ("P"), including a qualifying British citizen or a relevant sponsor, you may:

- request that P provide information or evidence about their relationship with the person, their residence in the UK or, if P is a qualifying British citizen, their residence in a European Economic Area (EEA) country or Switzerland (as in sub-paragraph (a)(i) of the definition of 'EEA citizen' in Annex 1 to Appendix EU)
- invite P to be interviewed in person, by telephone, by video-telecommunications link or over the internet

Failure to provide information or evidence or attend an interview

If the person or P fails within a reasonable timeframe specified in the request to provide the information or evidence that you have requested or, on at least 2 occasions, fails to comply with an invitation to attend an interview in person or with other arrangements to be interviewed, you may draw any factual inferences about

whether the person meets the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain as appear appropriate in the circumstances.

You may decide, following the drawing of such a factual inference, that the person does not meet the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain.

You must not decide that the person does not meet the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain on the sole basis that they or P failed on at least 2 occasions to comply with an invitation to be interviewed.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Refusals

There is no basis to refuse a valid application under the scheme beyond the eligibility and suitability conditions set out in Appendix EU, which are consistent with the Withdrawal Agreement.

A valid application under Appendix EU which does not meet the requirements for indefinite leave to remain or limited leave to remain will be refused under rule EU6.

If you require further information, you must discuss the case with your senior caseworker who may refer to the EEA Citizens' Rights & Hong Kong Unit for further advice.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Evidence of residence

Evidence required to establish residence in the UK

Many applicants will have their residence confirmed by automated checks of HM Revenue & Customs (HMRC) and Department for Work and Pensions (DWP) data. However, where those checks indicate that an applicant who does not hold a permanent residence document has a continuous qualifying period of residence in the UK of less than 5 years – or do not indicate that the applicant has been and remains resident in the UK for the purposes of establishing a continuous qualifying period – the applicant will be able to upload documentary evidence to satisfy you that they are or have been resident for a continuous qualifying period and, where appropriate, that they have been so for at least 5 years or that that they are in one of the categories eligible for indefinite leave to enter or remain (ILE or ILR) with a continuous qualifying period of residence in the UK of less than 5 years.

Applicants who are relying on periods of residence in the Islands will be able to upload documentary evidence of their residence there.

This section provides non-exhaustive lists of the type of documentary evidence which the applicant will be able to provide. The guidance below is not prescriptive or definitive. Some applicants may lack documentary evidence in their own name for various reasons; you must work flexibly with applicants to help them evidence their continuous qualifying period of residence in the UK by the best means available to them.

The applicant may submit several types of evidence to cover their claimed continuous qualifying period of residence. For example, a dated and signed letter from an employer confirming a 12 month period of UK-based employment which has been undertaken, and confirmation of the employer's status, may be submitted as evidence of residence in the relevant 12 month period and bank statements may be submitted as evidence of residence in the subsequent 12 month period.

Preferred evidence of residence

The documents listed below are preferred evidence because a single document may cover a significant period. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers:

- an annual bank statement or an account summary covering a 12 month period, showing payments received or spending in the UK in at least 6 months of that 12 month period
- annual business accounts of a self-employed person
- a dated and signed letter from an employer, confirming the duration of a period of UK-based employment which has been undertaken, and confirmation of the employer's status (such as registration with HMRC or Companies House) - this will be considered evidence of residence for the period of that employment

- a P60 for a 12 month period (you may request additional evidence to confirm that the person has been resident in the UK for at least 6 months of that period)
- a P45 confirming the duration of a period of employment which has ceased - this will be considered evidence of residence for the period of that employment
- a dated and signed letter from an accredited organisation in the UK confirming physical attendance at a course and its duration, or confirming enrolment on a course accompanied by dated and signed evidence of completion (such as a qualification certificate) - this will be treated as evidence of residence for the duration of the course
- a dated and signed letter from a registered care home confirming the period of residence in the home - this will be treated as evidence of residence for that period
- a dated, addressed invoice from an accredited organisation for school, college or university fees for education requiring physical attendance in the UK, which includes the name of the student, and accompanying evidence of payment - this will be treated as evidence of residence for the relevant academic term or terms or year
- documentation issued by the student finance body for England, Wales, Scotland or Northern Ireland or the Student Loans Company that shows a UK address, such as an entitlement notification or repayment statement - this will be treated as evidence of residence for the relevant academic term or terms or year
- a residential mortgage statement or tenancy agreement, and accompanying evidence of the mortgage or rent being paid (for example, confirmation from the lender or landlord), will be treated as evidence of residence for the period covered by the statement or agreement
- a dated, addressed council tax bill will be treated as evidence of residence for the period covered by the bill
- evidence of an employer making pension contributions will be treated as evidence of residence for the period covered by the contributions where the employment requires physical presence in the UK

Alternative evidence of residence

Because the documents listed below cover a shorter period, the applicant may need to submit more of them to evidence that they meet the residence requirement. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers:

- a dated bank statement (other than an annual statement, as above) showing payments received or spending in the UK - this will be treated as evidence of residence for the period covered by the bank statement
- a dated payslip for a UK-based job will be treated as evidence of residence for the period covered by that payslip
- a dated invoice for work you have done in the UK, and accompanying evidence of payment - this will be treated as evidence of residence for the month in which the invoice is dated
- a dated, UK-addressed domestic utility bill featuring the applicant’s name will be treated as evidence of residence for the period covered by the bill

- a dated, UK-addressed domestic bill or contract for a mobile or fixed line telephone or for a TV or internet service featuring the applicant's name will be treated as evidence of residence for the period covered by the bill or contract
- a dated letter from a UK GP or other healthcare professional confirming the applicant's attendance at appointments, or a card issued by the healthcare professional confirming those appointments - this will be treated as evidence of residence for the period covered by the appointments (or for the month in which a single appointment occurred)
- a dated letter, or benefit claims made to, a UK government department, another UK public body or a UK charity confirming the applicant's physical interaction with them, for example Job Centre Plus or Citizens' Advice or a registration card or certificate issued under the Worker Registration Scheme - this will be treated as evidence of residence for the month in which it is dated, unless it explicitly confirms interactions over a longer period
- other dated, UK-addressed domestic bills, for example, for insurance, veterinary bills or home services / repairs, featuring the applicant's name and accompanying evidence of payment will be treated as evidence of residence for the month in which the bill is dated
- a passport stamp confirming entry at the UK border - this will be treated as evidence of residence for the month of entry
- a used travel ticket confirming previous inbound travel to the UK - this will be treated as evidence of residence for the month of entry

Related content
Contents

Related external links
Appendix EU to the Immigration Rules

Cancellation, curtailment and revocation of leave to enter or remain

Annex 3 to Appendix EU sets out the circumstances in which indefinite leave to enter or remain (ILE or ILR) or limited leave to enter or remain (LTE or LTR) granted under Appendix EU must be cancelled or may be cancelled, curtailed or revoked.

Cancellation

Under A3.1., a person's ILE, ILR, LTE or LTR granted under Appendix EU must be cancelled on or before their arrival in the UK where you deem (or an Immigration Officer deems) the person's presence in the UK is not conducive to the public good because of conduct committed after the specified date.

Under A3.1A., a person's ILE, ILR, LTE or LTR granted under Appendix EU must be cancelled on or before their arrival in the UK where both:

- the person is an excluded person, as defined by section 8B (4) of the Immigration Act 1971, because of their conduct committed before the specified date, and the person does not fall within section 8B(5A) or 8B(5B) of that act
- you are (or an Immigration Officer is) satisfied that, because of the person's conduct committed before the specified date, the cancellation is justified on grounds of public policy, public security or public health in accordance with regulation 27 of the Immigration (European Economic Area) Regulations 2016, irrespective of whether the European Economic Area (EEA) Regulations apply to that person (except that in regulation 27 for 'a right of permanent residence under regulation 15' read 'indefinite leave to enter or remain under, or who would be granted indefinite leave to enter or remain if they made a valid application under, Appendix EU to the Immigration Rules'; and for 'an EEA decision' read 'a decision under paragraph A3.1A. of Annex 3 to Appendix EU to the Immigration Rules')

Under A3.1B., a person's ILE, ILR, LTE or LTR granted under Appendix EU must be cancelled on or before their arrival in the UK where the person is an excluded person, as defined by section 8B(4) of the Immigration Act 1971, because of conduct committed after the specified date, and the person does not fall within section 8B(5A) or 8B(5B) of that act.

Under A3.2., a person's ILE, ILR, LTE or LTR granted under Appendix EU may be cancelled on or before their arrival in the UK where you are (or an Immigration Officer is) satisfied that it is proportionate to cancel that leave where either:

- because of the person's conduct committed before the specified date, the cancellation is justified on grounds of public policy, public security or public health in accordance with regulation 27 of the EEA Regulations, irrespective of whether the EEA Regulations apply to that person (except that in regulation 27 for 'a right of permanent residence under regulation 15' read 'indefinite leave to

enter or remain under, or who would be granted indefinite leave to enter or remain if they made a valid application under, Appendix EU to the Immigration Rules'; and for 'an EEA decision' read 'a decision under paragraph A3.2.(a) of Annex 3 to Appendix EU to the Immigration Rules')
- the cancellation is justified on grounds that, in relation to the relevant application under Appendix EU, and whether or not to the applicant's knowledge, false or misleading information, representations or documents were submitted (including false or misleading information submitted to any person to obtain a document used in support of the application); and the information, representation or documentation was material to the decision to grant the applicant leave to enter or remain under Appendix EU

Under A3.3., a person's LTE or LTR granted under Appendix EU may be cancelled on or before their arrival in the UK where you are (or an Immigration Officer is) satisfied that it is proportionate to cancel that leave where either:

- they ceased to meet, or never met, the requirements of Appendix EU
- it is more likely than not that, after the specified date, the person has assisted another person fraudulently to obtain, or to attempt to obtain, entry clearance to, or LTE or LTR in, the UK

This does not apply to ILE or ILR granted under Appendix EU.

Curtailment

Under A3.4., a person's LTE or LTR granted under Appendix EU may be curtailed where you are satisfied that it is proportionate to do so where:

- curtailment is justified on grounds that, in relation to the relevant application under Appendix EU, and whether or not to the applicant's knowledge, false or misleading information, representations or documents were submitted (including false or misleading information submitted to any person to obtain a document used in support of the application); and the information, representation or documentation was material to the decision to grant the applicant leave to enter or remain under Appendix EU
- curtailment is justified on grounds that it is more likely than not that, after the specified date, the person has entered, attempted to enter or assisted another person to enter or to attempt to enter, a marriage, civil partnership or durable partnership of convenience
- the person ceases to meet, or never met, the requirements of Appendix EU
- curtailment is justified on grounds that it is more likely than not that, after the specified date, the person has assisted another person fraudulently to obtain, or to attempt to obtain, entry clearance to, or leave to enter or remain in, the UK

This does not apply to ILE or ILR granted under Appendix EU.

Further guidance on making a curtailment decision is available in EU Settlement Scheme: cancellation and curtailment.

Revocation

The revocation of ILE and ILR is governed by section 76 of the Nationality, Immigration and Asylum Act 2002. There is no legal power to revoke ILE or ILR for any reason beyond those set out in section 76 of the 2002 Act. The relevant provisions of that section are reflected in Annex 3 to Appendix EU for completeness.

Under A3.5., a person's ILE or ILR granted under Appendix EU may be revoked where you are satisfied that it is proportionate to do so where either:

- the applicant is liable to deportation, but cannot be deported for legal reasons
- the ILE or ILR was obtained by deception

Further guidance is available in EU Settlement Scheme: suitability requirements and in Revocation of indefinite leave guidance.

Related content
Contents
EU Settlement Scheme: suitability requirements
EU Settlement Scheme: cancellation and curtailment
Revocation of indefinite leave guidance

Related external links
Appendix EU to the Immigration Rules
Section 76 of the Nationality, Immigration and Asylum Act 2002

Right of appeal

From 4 April 2024, there is no scope to apply for an administrative review of any decision made on a valid application under Appendix EU.

Anyone who makes a valid application under Appendix EU on or after 11pm GMT on 31 January 2020 will have a right of appeal against a decision to refuse their application on eligibility or suitability grounds or to grant pre-settled status where they believe they qualify for settled status.

Anyone who made a valid application under Appendix EU before 11pm GMT on 31 January 2020 will have a right of appeal against a decision, made on or after 8 May 2023, to refuse their application on eligibility or suitability grounds or to grant pre-settled status where they believe they qualify for settled status.

Where a relevant decision is made on or after 11pm GMT on 31 January 2020 to cancel, curtail or revoke pre-settled or settled status or to make a deportation order in relation to a person with such status, they will have a right of appeal.

They may appeal on grounds that the decision:

- breaches any right they have under the Withdrawal Agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement
- was not in accordance with the legislation under which it was made

The paragraphs above summarise the position set out in detail in the Current rights of appeal guidance.

Related content
Contents
Current rights of appeal guidance