



APPLICATIONS TO THE EU SETTLEMENT SCHEME

As the summer is now in full swing, we need to be mindful of the autumn with the October 31st “Brexit Day”. We may not know if we will have a deal, no deal or delay for renegotiation; however from an immigration perspective, perhaps that does not matter.

The UKVI settled (and pre settled) scheme has been running for some time now, and will continue for the foreseeable future. Now might be the right to time to check that your staff are aware of the need to go through this process before the current deadline of 30th June 2021.

What is the EU Settlement Scheme?

The EU Settlement Scheme is the system set up by the UK government to process applications for immigration status from EU citizens and their family members living in the UK. It is intended to be a relatively simple and straightforward process. When an application is successful, one of two types of immigration status is granted:

- Pre-Settled Status (Limited Leave to Remain)
- Settled Status (Indefinite Leave to Remain)

For EU citizens themselves, the process involves proving their identity with a document scanner or smartphone app and proving residence in the UK. The application is made online and details are sent to the Home Office. The Home Office is responsible for looking at the applications and informing EU citizens whether or not they have been granted a status under the scheme.

What is Settled and Pre-Settled Status?

The type of status granted to EU citizens under the Settlement Scheme depends on how long they have been living in the UK. EU citizens and their eligible family members who have been continuously resident in the UK for five years will be granted settled status, which enables them to stay indefinitely. EU citizens who have lived in the UK under five years will be granted pre-settled status, and will be eligible to apply for settled status after 5 years continuous residence.

Continuous Residence

Being "continuously resident" means having not left the UK for more than six months at a time. Someone who has been absent from the UK for six months will break his or her continuous residence. The only exceptions to this general rule are:

- A single period of absence which did not exceed 12 months and was for an important reason (e.g. pregnancy, childbirth, serious illness, study, vocational training or an overseas posting); or
- Any period of absence on compulsory military service.

How Does the Process Work?

The system has been designed to be much easier than a typical immigration application. Currently it is only available for certain Android phones and tablets, but we understand it will be available on Apple products later in the year. Those applying will need to prove three things:

1. Identity
2. Residence
3. Criminal records check

1. Identity and Nationality

Applicants will be able to provide evidence of their identity and nationality by scanning their passport or valid national identity card via the app. This will only work if the passport or card is a "biometric" document with a chip. Those who do not have a biometric document may send the documents by post instead. There are also various locations around the country where people can go in person. The Home Office may accept alternative evidence of identity where an applicant is unable to produce a passport or ID card "due to circumstances beyond their control or to compelling practical or compassionate reasons". Applicants will also use the app to upload photographs of themselves.

2. Residence in the UK

To be granted the full settled status, applicants will need to show that they have been living in the UK for five continuous years. Those who do not have five continuous years' residence will be granted pre-settled status instead.

An applicant does not need to be physically present in the UK in order to make an application for settled status; applications can be made from abroad.

EU nationals will not need to show that they have been working, studying or held Comprehensive Health Insurance (a big issue for many people refused permanent residence documents in the past).

Using the applicant's National Insurance Number, if they have one, the Home Office will carry out automated checks of data held by HMRC and the Department for Work and Pensions (DWP). Only data held over the last seven years is checked.

If the automated checks show that the applicant has been continuously resident in the UK for a period of five years, he or she will be offered settled status. Those who have been living here for less than that will be offered pre-settled status.

Of course, not everyone will have data with HMRC or DWP (for example, those who have never worked or received benefits). Or there might be gaps, meaning that someone who has been here for five years or more will be incorrectly offered pre-settled status. In these cases, the applicant will then be able to upload extra evidence of their continuous residence.

Parents can apply on behalf of a child, and link the family's applications together.

3. Criminal Record

All applications for settled status will be checked against criminal records databases as well. Some people with criminal records may be turned down for settled and pre-settled status as a result.

HOW TO APPLY FOR THE SETTLEMENT SCHEME

Applications for the EU Settlement Scheme are made online, with very few exceptions. There are two stages:

1. Smartphone app
2. Online application form

The smartphone app is for verifying the applicant's identity. The online application form is for proving proof of residency and any criminal convictions.

Applicants who have completed the app part of the process will be directed from there to the online form. So many people will be able to finish the application on their phone in one sitting. However, you can also complete the app stage on one device and start the online application form later, using a different device (including a desktop computer).

The Process in Detail:

1. Install the app **EU Exit: ID Document Check** from the store on your android device. N.B. not all devices are compatible!
2. Open the app – the first few screens take you through what to expect and some terms and conditions. There is no alternative but to accept them (unless you don't want to apply)!
3. Take a picture of your passport or ID card.
4. Provide an email address or phone number for contact - we recommend an email address.
5. You will receive an access code by text message, use your own number (not the one of the borrowed phone).
6. Scan the biometric chip of your passport or ID card - if you don't have a biometric identity document you will need to use an alternative application method. This step can be fiddly.

7. Selfie – part 1! You need to scan your face following the instructions on the phone to move it from side to side.
8. Selfie – part 2! Take a ‘normal’ picture of yourself. You need to look at the camera and make sure the image is in the style of a passport photo.
9. Review and submit.

Now move to a computer – you can do this on a mobile device, but it is easier on a computer.

1. Go to this website: <https://www.gov.uk/settled-status-eu-citizens-families/applying-for-settled-status> and chose the link to continue your application. (If you are applying online without using the android app, the same link allows you to choose to “start now” for a new application.
2. Enter required details – document number, date of birth and then generate another access code. This will be sent to your mobile, and does not need to be the same as the device used to register your biometric details.
3. Once logged in you can see that the identity section, and photo upload have been completed – you have 3 more sections to complete: application type, residence requirements and criminal convictions. None of this should be too difficult.
4. Application type asks a few basic questions, including if you have any other nationality; or have ever applied for a UK residence permit. The screens are reasonably intuitive – just follow the instructions.
5. Residence is checked from tax records, hence the need to supply an NI number. If this does not show you have lived in the UK for the required period, you will have the option to upload further documentary proof.
6. Criminal convictions and other declarations – this is where you declare various things relating to convictions, terrorism and war crimes. Answer accurately as trying to hide a conviction could mean UKVI refuse you a status on the grounds of dishonesty.
7. You then need to submit your answers. The application will ask for answers to some security questions – these are in place to verify you if UKVI need to contact you to discuss the application. You then need to agree to a declaration that everything has been completed accurately.
8. The system will then come back to you with one of three possible outcomes:
 - a. You will be considered for settled status – this means the automated checks have found 5 years of tax and national insurance records and you can “submit” for a caseworker to sign off on the application
 - b. You will be considered for pre-settled status. This will happen if you have been resident in the UK for less than 5 years (or if the NI check cannot find 5 years of records). If this is accurate – click submit; if not, click “show I am eligible for settled status” – this will then allow you to upload evidence that you have been in the UK for 5 years. You can scan or upload photographs of your evidence. **
 - c. The third possible outcome is “we need more evidence of your residence” The same applies – upload evidence as proof of the length of your stay in the UK. **

** UKVI have specific guidance on the sort of evidence they will accept. You can find it here: <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>

The Decision

You will receive an email with a letter attached, which confirms your application has been submitted. This normally arrives in your inbox quite quickly. Then you just wait. In our experience, waiting time can vary from a few minutes to several days, particularly if you have uploaded extra documentation.

Once approved, you will receive another email with another letter and instructions on how to check your status. The letter is not considered legal proof – only viewing your record on the UKVI database is considered valid proof. Although you do not need to do this, we recommend familiarising yourself with the process as you will need to access this service in the future to “share” permission to anyone requiring proof of your status, for example a new employer.

If the application is refused then there is a mechanism for challenging the decision – at this point we would recommend seeking legal advice.

Other Ways to Apply

If you do not use the app, you can complete the application online (see link above) and then book to go to an identity verification centre where your passport or ID will be scanned. There are around 50 of these centres across the UK, and you can choose one close to you during the online part of the process. You need to book an appointment and pay the biometric application fee.

The online application portal also allows the option of posting your document to UKVI – the address is provided if you choose this option when applying online.

Family Member Applications

Family members follow the same procedure as outlined above, but need to “link” their application to a sponsor using the EU citizen’s application reference number. This means the main application must be completed first! Then follow the same basic instructions outlined above for each family member.