Home Office

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

Version 6.0

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About this guidance

This guidance tells you how, from 4 June 2020, to consider applications made under the EU Settlement Scheme, contained in Appendix EU to the Immigration Rules.

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 resident EEA and Swiss citizens and their family members to apply for the UK immigration status which they will require in order to remain here after 30 June 2021. Those agreements now have effect in UK law through 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'.

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 (as defined in Annex 1 to Appendix EU and where the applicant is not a certain family member of a qualifying British citizen) 2300 Greenwich Mean Time (GMT) on 31 December 2020.

For guidance on applications from the family member of a qualifying British citizen, including on the meaning in that context of 'specified date', see EU Settlement Scheme: Family member of qualifying British citizen.

Where this guidance refers to the 'EEA Regulations' it means (as defined in Annex 1 to Appendix EU) the Immigration (European Economic Area) Regulations 2016 (as they have effect at the date of application or as they had effect immediately before they were revoked).

Where this guidance refers to ‘immigration status in the UK or the Islands’ it 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 or under the Immigration (European Economic Area) Regulations of the Isle of Man

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(s) where you have reasonable doubt as to the authenticity of the copy submitted.

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

Cost of application

There is no fee for an application under the EU Settlement Scheme. Any person who previously paid an application fee during the private or public beta test phases of the scheme has had this refunded.

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

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 in order 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 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 European Migration & Citizens' Rights 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 **6.0**
- published for Home Office staff on **24 June 2020**

Changes from last version of this guidance

Amendments have been made to reflect the changes to Appendix EU made in Statement of Changes in Immigration Rules: CP 232, laid on 14 May 2020.

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Statement of Changes in Immigration Rules: CP 232Section 55 of the Borders, Citizenship and Immigration Act 2009
Every Child Matters – Change for Children

Who can apply

The EU Settlement Scheme launched fully at 7.00am on 30 March 2019.

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.

A person who is exempt from immigration control, for example foreign diplomats, consular staff and members of certain international organisations, 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.

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. Further information on the right of abode in the UK can be found at 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.

EEA citizen

A European Economic Area (EEA) citizen is defined in Annex 1 to Appendix EU as a person who is 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

- 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

Relevant EEA citizen

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 the 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 the definition in Annex 1 to Appendix EU) who, having been resident in the UK and Islands as described above either:
  - has been or is being granted indefinite leave to enter or remain under Appendix EU (or under its equivalent in the Islands)
  - would be granted indefinite leave to enter or remain under Appendix EU, if they made a valid application under it

- 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 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, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under Appendix EU, if they made a valid application under it

For further guidance on sub-paragraph (c) above please see: Relevant Naturalised British citizen.

For further guidance on sub-paragraph (d) please see: Family member of a dual British and EEA citizen (McCarthy cases).

Islands

'The Islands' are defined in Annex 1 to Appendix EU as:

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

'The UK and Islands' is defined in Annex 1 to Appendix EU as:

- the UK and the Islands taken together

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'.

Eligible family member

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

Relevant naturalised British citizen

A family member of a relevant EEA citizen can also apply where they are the family member of a dual British and EEA citizen who exercised free movement rights in the UK prior to 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) 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) who, having been resident in the UK and Islands as described above, would, but for the fact that they are a British citizen, be granted indefinite leave to enter or remain under Appendix EU, if they made a valid application under it

And, 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 (regardless of whether, save in conditions 5 and 6 in the table in paragraph EU11 of Appendix EU, they 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 prior to 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 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.

A relevant document

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

- under sub-paragraph (a)(i), 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 (in the case of a family permit) 1 July 2021 and otherwise before 1 January 2021

- under sub-paragraph (a)(ii), a document or other evidence equivalent to a document to which sub-paragraph (a)(i) 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 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

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-paragraph (d)), 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) 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 sub-paragraph (a)(i)) 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 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.

A specified relevant document

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

- within the meaning of sub-paragraph (a)(i) 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

- a biometric residence card issued by virtue of having been granted limited leave to enter or remain under Appendix EU

A person with, or who had, a derivative or Zambrano right to reside

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

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

A ‘person who had a derivative or Zambrano right to reside’ is defined in Annex 1 to Appendix EU as a person who both:

- was a person with a derivative right to reside or, as the case may be, a person with a Zambrano right to reside, immediately before they became, as the case may be, a relevant EEA citizen, a family member of a relevant EEA citizen, a person with a derivative right to reside, a person with a Zambrano right to reside or a family member of a qualifying British citizen

- has since remained, to the date of application, in any (or any combination) of those categories or as 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

Related content
Contents

Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
Lounes (C-165/16)
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 of 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

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

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 e-mail to the Home Office e-mail 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).

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 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) or considered, the document is no longer valid, the application remains a valid application for the purposes of rule EU9 of Appendix EU.

France has 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, has been 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.

Some countries have extended the validity period of their identity documents in response to the COVID-19 situation. The table below sets out which countries have made changes, which documents they apply to, and the impact on the expiry date.

Country	Document	Changes to expiry date
Bulgaria	Passport and national identity card	Any document expiring between 13 March 2020 and 31 October 2020 is to be treated as having no expiry date.
Croatia	Passport and national identity card	Any document expiring on or after 13 March 2020 is to be treated as having no expiry date.
Hungary	Passport and national identity card	Any document expiring on or after 11 March 2020 is to be treated as having no expiry date.
Portugal	Passport and national identity card	Any document expiring between 27 February 2020 and 30 June 2020 is to be accepted as valid until 30 June 2020.
Romania	Passport and national identity card	Any document expiring on or after 16 March 2020 is to be treated as having no expiry date.
Spain	National identity card	Any card expiring between 14 March 2020 and 13 March 2021 is to be accepted as valid until 13 March 2021.

Evidence of the EEA citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuous 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.

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 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) or considered, the document is no longer valid, the application remains a valid application for the purposes of rule EU9 of Appendix EU.

France has 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, has been 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.

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Country	Document	Changes to expiry date
	card	
Hungary	Passport and national identity card	Any document expiring on or after 11 March 2020 is to be treated as having no expiry date.
Portugal	Passport and national identity card	Any document expiring between 27 February 2020 and 30 June 2020 is to be accepted as valid until 30 June 2020.
Romania	Passport and national identity card	Any document expiring on or after 16 March 2020 is to be treated as having no expiry date.
Spain	National identity card	Any card expiring between 14 March 2020 and 13 March 2021 is to be accepted as valid until 13 March 2021.

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 the published biometric guidance for more details.

Validity consideration

If an applicant submits an application which is missing any of the components required at rule EU9(a), (b), (c) and (d) of Appendix EU for it to be valid, 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

Should the validity requirements at sub-paragraph (a), (b), (c) or (d) of rule EU9 not be met after 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.

Treating an application as void

An application must be treated as void 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
- the applicant is a person who is exempt from immigration control: see Who can apply

Certificate of application

A digital certificate of application (or in the case of an application made on paper, a hard copy certificate of application sent via post or email) 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. 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. For example, 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 contact the applicant and explain to them that only one application can be made at a time and take the action set out below depending on the particular circumstances:

- where 2 or more invalid applications are submitted because, for example, the required proof of identity and nationality has not yet been provided, you must give the applicant a reasonable opportunity to provide what is needed to validate one of the applications and to withdraw the other or others:
    - if they validate one application but fail to withdraw the other or others, you must contact them again, 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 - the valid application must be considered in the normal way

    - if for example they provide the required proof of identity and nationality but fail to specify which application they would like it to validate and fail to withdraw the others, you must validate their most recent application (where the other requirements of a valid application are met) and reject the other applications as invalid under rule EU10(1) of Appendix EU
    - if they do not validate any of the applications 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 applications are made, where one is valid and the other or others invalid, and the valid application would result in a grant of settled status, you must grant the valid application and reject the other application or applications as invalid under rule EU10(1) of Appendix EU - however, where the valid application would not result in a grant of settled status, 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

- where 2 or more applications 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 a variation of the earlier application or applications, which must be treated as withdrawn - this is in line with paragraph 34BB(2) of the Immigration Rules, with rule EU10(2) of Appendix EU (which disapplies paragraph 34BB(3) to (5) in respect of applications made under it) and with the published guidance on Applications for leave to remain: validation, variation and withdrawal - you must notify the applicant of this

Further applications

An applicant can only have one grant of limited or indefinite leave to enter or remain under the Immigration Rules at any one time. This means that, 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

- 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. The expiry date of their pre-settled status will be five years from the date of decision on the further application for pre-settled status.

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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 valid biometric residence card. 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 European Migration & Citizens' Rights 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 below).

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 (i.e. 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 below).

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 in a position 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 below), 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.

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 such as an applicant's age, although not a serious medical condition, 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(s) 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 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 below).

The applicant is to be asked to produce alternative evidence of their identity and nationality (see Other supporting information or evidence below), 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 in order 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 Member State which confirms the applicant's identity and nationality, including a document confirming permanent residence in that state or registration as the family member of an EEA citizen exercising Treaty rights in that state

- the applicant's biometrics (facial photograph and, in the case of a non-EEA citizen, fingerprints) which match an existing government record confirming their identity and nationality

Where 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 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 videolink or over the internet as long as you are satisfied that the person to whom you are speaking is the applicant.

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 above) may also be considered if necessary.

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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 caseworking 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 online 'ask a question about applying for settled status' form found at https://eu-settled-status-enquiries.service.gov.uk/start, selecting the option for asking a question about 'An application submitted and in progress'. 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 Qadeer v SSHD 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 e-mail, the date on which it is recorded by Home Office e-mail software as received at the Home Office e-mail 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 caseworking 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.

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Qadeer v SSHD

Variations

This section tells you how to deal with a variation of an application. An applicant can generally only have one valid application for leave under the Immigration Rules outstanding at any one time.

Application pending under the EU Settlement Scheme

If an applicant has an application pending under the scheme and then makes a subsequent application for indefinite leave or limited leave under another part of the Immigration Rules, the original application will be varied by the second application and must no longer be considered. This does not apply if the second application is a claim for asylum or humanitarian protection or otherwise based on human rights, in which case both applications must be considered, and where both applications fall to be granted, you must consult your senior caseworker who must consult the European Migration & Citizens' Rights Unit before either application is decided.

Application pending under another part of the Immigration Rules

If an applicant has an application for indefinite leave or limited leave pending under another part of the Immigration Rules and then makes an application under the scheme, the original application will be varied by the scheme application and must no longer be considered. You must refund any fee paid in respect of the original application. This does not apply if the original application is a claim for asylum or humanitarian protection or otherwise based on human rights, in which case it must continue to be considered and where both applications fall to be granted, you must consult your senior caseworker who must consult the European Migration & Citizens' Rights Unit before either application is decided.

Application made under the EU Settlement Scheme and the Immigration (European Economic Area) Regulations 2016

An applicant can hold status under the EU Settlement Scheme and a document under the Immigration (European Economic Area) Regulations 2016. If an applicant applies under one while they have an application pending under the other, you must process both applications and retain any fee that was paid for the application under the EEA Regulations.

Date of application: variations

Where an application is varied, the application date remains the date of the original application.

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Making an application: eligibility

This section tells you the requirements for eligibility of an applicant 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 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.

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 no supervening event has occurred. 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 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 no longer has effect:
  - 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

Existing indefinite leave to enter or remain

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 in the UK or the Islands.

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 the applicant has

indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated

- you are otherwise satisfied from the evidence or information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK or the Islands, and this status both:
  - has not lapsed through absence from the UK and Islands for a period of more than 2 consecutive years
  - has not 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 – 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 in order 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, 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 no longer has effect:
  - 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, where they 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
- 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
  - 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, immediately before becoming a worker or self-employed person in another EEA country (see: the countries listed in sub-paragraph (a)(i) of the definition of 'EEA citizen' in Annex 1), 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 no longer has effect:
  - 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 please 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, where:

- you are satisfied, including by the required evidence of family relationship, that they are 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

And, in addition, either:

- the relevant EEA citizen (or the spouse or civil partner) has been or is being granted indefinite leave to enter or remain under Appendix EU (or under its equivalent in the Islands)
- where the relevant EEA citizen (or the spouse or civil partner) is an Irish citizen who has not made a valid application under Appendix EU, they would be granted that leave if they made such an application
- the relevant EEA citizen (or the spouse or civil partner) 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)

Continuous qualifying period of less than 5 years

An EEA citizen who has completed a continuous qualifying period of residence in the UK and Islands of less than 5 years at the date of application, 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 please see consideration of applications - limited leave to enter (LTE) or remain (LTR).

Related content

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

Family members

Who can apply as a family member?

The following European Economic Area (EEA) citizen or non-EEA citizen family members of an EEA citizen may be eligible to apply:

- spouse
- civil partner
- durable partner (unmarried partner whose relationship is akin to marriage or civil partnership, and the applicant holds a relevant document in this capacity)
- child under 21 of the EEA citizen or of the spouse or civil partner
- dependent child over 21 of the EEA citizen or of the spouse or civil partner
- dependent parent of the EEA citizen or of the spouse or civil partner
- dependent relative of the EEA citizen or, in some cases, of the spouse or civil partner (and the applicant holds a relevant document in this capacity)

Documented right of permanent residence

A family member will be eligible for ILE or 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 no supervening event has occurred.

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 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 no longer has effect:
  - 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.

Existing indefinite leave to enter or remain

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 in the UK.

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 the applicant has indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated
- you are otherwise satisfied from the evidence and information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK or Islands, and this status both:
  - has not lapsed through absence from the UK and Islands for a period of more than 2 consecutive years
  - has not 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 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 no longer has effect:

- 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 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, where, at the date of application:

- you are satisfied, including by the required evidence of family relationship, that they are 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

And either:

- the relevant EEA citizen (or the spouse or civil partner) has been or is being granted indefinite leave to enter or remain under Appendix EU (or under its equivalent in the Islands)
- where the relevant EEA citizen (or the spouse or civil partner) is an Irish citizen who has not made a valid application under Appendix EU, they would be granted that leave if they made such an application
- the relevant EEA citizen 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)

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, where the relevant EEA citizen meets the requirements of sub-paragraph (b) of that definition in Annex 1 to Appendix EU (or 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) and:

- 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 immediately before the relevant EEA citizen became a person who has ceased activity

And, in addition, you are 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

- 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
  - 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, immediately before becoming a worker or self-employed person in another EEA country 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 no longer has effect:
  - 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, where 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 was a family member of the 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 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 no longer has effect:

- 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 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).

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 (as set out above), you must be satisfied, including by the required evidence of family relationship (see assessing family relationship), that the applicant:

- is an EEA or non-EEA citizen who was the family member of a relevant EEA citizen and that person died
- was resident in the UK as the family member of that relevant EEA citizen for a continuous qualifying period of at least a year 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 points 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 all the following are met:

- the applicant is an EEA or non-EEA citizen who has ceased to be a family member of a relevant EEA citizen (or of a qualifying British citizen) on the termination of the marriage or civil partnership of that relevant EEA citizen (or of that qualifying British 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 (or that qualifying British citizen ceased to be a qualifying British citizen), they will be deemed to have remained a relevant EEA citizen (or, as the case may be, a qualifying British citizen) until that termination
- the applicant was resident in the UK at the date of the termination of the marriage or civil partnership
- the applicant meets 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 the parties to the marriage or civil partnership had been resident in the UK for a continuous qualifying period of at least one year during its duration
  - the applicant has custody of a child of the relevant EEA citizen (or the qualifying British citizen)
  - the applicant has the right of access to a child of the EEA citizen (or the qualifying British 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 (or with a qualifying British citizen) has broken down permanently as a result of domestic violence or abuse
- was 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 here a family relationship with a relevant EEA citizen (or with a qualifying British 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 (or of a qualifying British 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 (or of a qualifying British 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 qualifying British 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 qualifying British 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

- the dependent parent of a relevant EEA citizen or qualifying British citizen who is aged under 18

And, in any case, to be eligible for ILE or ILR on the basis of a 5 years continuous qualifying period, 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 no longer has effect:
  - 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, please see consideration of applications for indefinite leave to enter (ILE) or indefinite leave to remain (ILR) below.

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

The CJEU judgment in McCarthy 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 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.

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 has completed a continuous qualifying period of residence in the UK and Islands of less than 5 years at the date of application, 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 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 please see consideration of applications - limited leave to enter (LTE) or remain (LTR).

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Assessing family relationship

Where the applicant is a European Economic Area (EEA) citizen resident in the UK 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. 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 of rule EU11
- 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) 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). 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) 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 a valid document of record of a marriage recognised under the law of England and Wales, Scotland or Northern Ireland or of the Islands.

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); 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); 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.

Durable partner

The applicant is (or for the relevant period was) in a durable relationship with the relevant EEA citizen (or qualifying British citizen), with the couple having lived together in a relationship akin to marriage or civil partnership for 2 years or more, unless there is other significant evidence of the durable relationship, for example, evidence of joint responsibility for a child (a birth certificate or a custody agreement showing they are cohabiting and sharing parental responsibility).

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.

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:

- a relevant document (as described in sub-paragraph (a)(i) 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), and evidence which satisfies you that the durable partnership continues to subsist (or did so for the period of residence relied upon). This evidence might, for example, take the form of:
  - evidence of cohabitation (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 (tax returns of business contracts, investments)

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

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 in order 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 in order to enjoy a right to enter or reside in the UK under EU law
- any criterion the party would otherwise have to meet in order 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 the direct descendant of the relevant EEA citizen (or qualifying British citizen) or of their spouse or civil partner, and this includes a grandchild or great-grandchild.

In addition, 'child' includes here (and, where appropriate, in the next section):

- 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 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 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 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 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 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 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 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 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 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 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 their spouse or civil partner

It does not include a child cared for by the EEA citizen (or the qualifying British citizen) 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(s) or other document(s) 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 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 of the spouse or civil partner of a relevant EEA citizen (or of a qualifying British citizen), 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.

In the case of an adopted child, surrogate child or a child subject to any of the guardianship orders referred to above, you must discuss the case with your senior caseworker who may refer to the European Migration & Citizens' Rights 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 of their spouse or civil partner, and this includes a grandchild or great-grandchild, and (unless the applicant was previously granted limited leave to enter or remain under Appendix EU, or its equivalent in the Islands, as a child under the age of 21) the applicant must be dependent on the relevant EEA citizen (or qualifying British citizen) or on that spouse or civil partner.

'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 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 by the spouse or civil partner
- there is no need to determine the reasons for that dependence or for the recourse to that support

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(s) or other document(s) 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 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), 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.

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

Where the applicant was not previously granted limited leave to enter or remain under Appendix EU, or its equivalent in the Islands, as a child, they must also provide evidence which satisfies you that the applicant is (or for the relevant period was) dependent on the relevant EEA citizen (or qualifying British citizen) 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 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 of their spouse or civil partner, on serious health grounds, such as a letter from a hospital consultant

Dependent parent

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

Where the relevant EEA citizen (or qualifying British citizen) is over the age of 18 at the date of application, 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, evidence of the applicant's dependency on the relevant EEA citizen (or qualifying British citizen) must be provided. This evidence might take the form of for example:

- 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) on serious health grounds, such as a letter from a hospital consultant

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(s) or other document(s) which you are satisfied evidences that the applicant is the direct relative in the ascending line of the relevant EEA citizen (or qualifying British citizen) 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), 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.

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 sponsor, and the person is (or for the relevant period was) a dependant of the sponsor, 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 sponsor

- 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 sponsor
  - has been adopted by the durable partner of their sponsor, in accordance with a 'relevant adoption decision' (as defined in Annex 1 of Appendix EU)

Under sub-paragraph (b), the applicant must also hold a relevant document (as described in sub-paragraph (a)(i) or (a)(ii) of that definition in Annex 1 to Appendix EU) as the dependent relative of their sponsor for the period of residence relied upon.

Their 'sponsor' means:

- where sub-paragraphs (a)(i) and (b) apply, either:
  - a relevant EEA citizen who has been or is being granted indefinite leave to enter or remain or limited leave to enter or remain under Appendix EU (or who would be granted that leave, if they made a valid application under Appendix EU)
  - the spouse or civil partner of a relevant EEA citizen who has been or is being granted indefinite leave to enter or remain or limited leave to enter or remain under Appendix EU (or who would be granted that leave, if they made a valid application under Appendix EU)
  - a qualifying British citizen or their spouse or civil partner

- where sub-paragraphs (a)(ii) and (b), or (a)(iii) and (b), as quoted above, apply, either:
  - a relevant EEA citizen who has been or is being granted indefinite leave to enter or remain or limited leave to enter or remain under Appendix EU (or who would be granted that leave, if they made a valid application under Appendix EU)
  - a qualifying British citizen

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:

- a relevant document issued on the basis that they are the dependent relative of their sponsor, and 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

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.

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 'sponsor' 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 sponsor 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 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 before that limited leave to enter or remain expires 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 or a family member who has retained the right of residence

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

The applicant will need to provide proof of the identity and nationality of the relevant EEA citizen (or qualifying British citizen) 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 neither a relevant naturalised British citizen nor a dual British and EEA citizen: McCarthy cases) or of a qualifying British citizen, their valid passport
- in the case of a relevant EEA citizen (who is neither a relevant naturalised British citizen nor a dual British and EEA citizen: McCarthy cases), their valid national identity card or confirmation that they have been or are being granted leave under the scheme
- in the case of a relevant EEA citizen who is a relevant naturalised British citizen or a dual British and EEA citizen: McCarthy cases, 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

'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) 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), 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.

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) 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 – i.e. 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 – i.e. 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 or is being granted indefinite leave to enter or remain under Appendix EU (or under its equivalent in the Islands)
  - would be granted indefinite leave to enter or remain under Appendix EU, if they made a valid application under it

- 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 – i.e. a 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)

- 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, 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) is able to 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

Where the relevant EEA citizen has been granted leave under the scheme (or is an Irish citizen without leave under the scheme who would be granted it if they made a valid application under Appendix EU, or is a relevant naturalised British citizen, who would, but for the fact that they are a British citizen be granted it, if they made a valid application under Appendix EU), a non-EEA citizen family member who does not have the required proof of entitlement to apply from outside the UK can apply for an EU Settlement Scheme Family Permit to join the relevant EEA citizen in, or accompany them to, the UK.

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 to the EU Settlement Scheme.

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 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", 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 an appropriate living arrangement 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

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 as a result 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 or guardian's address, such as a utility bill, bank statement or NHS 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.

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
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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

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 and 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)

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(2), an application under Appendix EU may be refused on grounds of suitability where, at the date of decision, the applicant is subject to:

- an 'Islands deportation order' (as defined in Annex 1 to Appendix EU)
- an 'Islands exclusion decision' (as defined in Annex 1)

as made under the immigration laws of the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man.

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 WI, UK Visas and Immigration must conduct an initial assessment of suitability, to establish whether the application is to be referred to Immigration Enforcement (IE) for full case by case consideration of the individual's conduct, under either:

- the public policy, public security or public health test as set out in the EEA Regulations 2016 where the conduct was committed before the specified date
- the UK criminality thresholds where the conduct was committed after the specified date

If a decision is then made by IE that falls within rule EU15(1), the application under the scheme will be refused by IE.

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 it is proportionate to refuse the application where any of the following applies:

- EU16(a): 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): the applicant is subject to a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights under Directive 2004/38/EC

- EU16(c): the applicant either:
    - has previously been refused admission to the UK in accordance with regulation 23(1) of the EEA Regulations
    - 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 321B(b)(i) or 321B(b)(ii) of the Immigration Rules
- and (in either case) the refusal of the application is justified either:
    - in respect of 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 "has a right of permanent residence under regulation 15" read "who meets the requirements of paragraph EU11 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")

    - in respect of conduct committed after the specified date, on the ground that the decision is conducive to the public good

- EU16(d): the applicant is a relevant excluded person (as defined in Annex 1 to Appendix EU) based on 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 "has a right of permanent residence under regulation 15" read "who meets the requirements of paragraph EU11 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 based on conduct committed after the specified date

A sentence of imprisonment does not include a suspended sentence (unless a court subsequently orders that the sentence or any part of it, of whatever length, is to take effect).

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 or not 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, 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), provided that 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.

A refusal on the basis of rule EU16(c) may only take place where the applicant has previously been refused admission under regulation 23(1) of the EEA Regulations or 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),

cancelled under paragraph 321B(b)(i) or 321B(b)(ii) of the Immigration Rules. 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 the EEA Regulations, 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. In addition, the decision-maker may only refuse the application under rule EU16(c) where it is proportionate to do so.

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 and refusing the application is proportionate.

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 on the grounds of public policy, public security or public health.

Rule EU16(e) applies where a person is a 'relevant excluded person' on the basis of conduct committed after the end of 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 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 no longer has effect in respect of the applicant.

See: EU Settlement Scheme: suitability requirements for more detailed guidance on suitability assessment.

Related content

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Related external links
Appendix EU to the Immigration Rules
Immigration (European Economic Area) Regulations 2016
EU Settlement Scheme: suitability requirements

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 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 the specified date and 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.

This includes where the applicant has previously been granted limited leave to enter or remain under Appendix EU and is now seeking to rely upon having completed a continuous qualifying period of 5 years' residence in order to be eligible for indefinite leave to enter or remain.

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:
  - evidence to support an absence as a result 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 as a result 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
- any period of absence on compulsory military service:
  - evidence to support a period of absence as a result 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)

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).

A continuous qualifying period is also broken by any of the following, unless it has been set aside or no longer has effect in respect of the person:

- 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 – save for the purposes of the reference to continuous qualifying period in condition 6 in the table in paragraph EU11 of Appendix EU and in sub-paragraph (d)(iii)(aa) of the entry for 'family member who has retained the right of residence' in its Annex 1 (as that reference applies to, as the case may be, the relevant EEA citizen or the qualifying British citizen) – the period is 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 or under the Immigration (European Economic Area) Regulations of the Isle of Man), a continuous qualifying period is a period which continues at the date of application.

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) 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 no longer has effect. Where a person has 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 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 the applicant served or is serving a sentence of imprisonment of any length in the UK and Islands.

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 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), provided that 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 (provided they are no longer exempt at the date of application), 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 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 2 consecutive years. There are exceptions for those overseas on Crown service and those accompanying them.

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.

Automated checks of HMRC and DWP 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).

Automated checks (Application Programming Interface (API))

In all cases in which the applicant provides their National Insurance number checks will be run against HMRC and certain 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 confirmed, by way of a self-declaration as part of the application process, that they have 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. The applicant will be asked to confirm this is correct and, subject to evidence of the relevant family relationship (where relevant) and to identity and 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 identity and 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 has 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 identity and 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 identity and 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. If the applicant does so, and subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted ILE or ILR or LTE or LTR as appropriate.

See evidence of residence for further information on evidence which may be provided where automated checks do not confirm a continuous qualifying period of residence as claimed by the applicant.

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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 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
- indefinite leave to enter (ILE) or indefinite leave to remain (ILR) holders
- 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

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Supervening event

A supervening event means that, at the date of application either:

- the applicant 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 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 applicant, unless it has been set aside or no longer has effect:
  - 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

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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) where you are satisfied that they have a documented right of PR and no supervening event has occurred.

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.

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 caseworking 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.

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. 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.

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

Indefinite leave to enter (ILE) or indefinite leave to remain (ILR) holders

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.

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 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:

- 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
- 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
- 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.

Applicants unable to provide evidence of ILE or ILR

Where an applicant applies on the basis of having ILE or ILR 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 Programme to have their status checked and documented. Further information can be found here.

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 caseworking 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.

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. He has provided his expired

passport which contains a valid stamp confirming that he has been granted ILR 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 but states that she has lost the appropriate document.

Home Office records confirm that Dr D was granted ILR as claimed and there is no evidence to suggest this has lapsed or been revoked or invalidated. Dr D is eligible for ILR.

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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

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 reside
- 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 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 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.

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 HMRC and 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. See automated checks for further information.

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 where these are conducted, confirms that they have completed a continuous qualifying period of residence in the UK and Islands (or, where applicable, the UK) of 5 years. 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.

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. 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. Mrs F is eligible for ILR.

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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

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 HMRC, etc

- 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, etc
- 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 immediately before retirement (either from the automated checks with HMRC and 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
  - 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, etc
- 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 (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, 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 (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, etc
- 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.

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.

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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
- the relevant EEA citizen either:
  - meets the requirements of sub-paragraph (b) of that definition in Annex 1 to Appendix EU – i.e. is 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 or is being granted indefinite leave to enter or remain under Appendix EU (or under its equivalent in the Islands)
    - would be granted indefinite leave to enter or remain under Appendix EU, if they made a valid application under it
  - is a relevant naturalised British citizen (in accordance with sub-paragraphs (b), (c) and (d) of that definition in Annex 1 to Appendix EU)
- the applicant was resident in the UK and Islands for a continuous qualifying period 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

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 is being granted ILE or ILR under Appendix EU (or under its equivalent in the Islands) or would be granted that leave under Appendix EU if they made a valid application under it. 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 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' LTE or LTR under condition 1 in rule EU14.

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. 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. Mr L is eligible for ILR.

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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 before dying, or the death was the result of an accident at work or an occupational disease
- no supervening event has occurred since the relevant EEA citizen died

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 HMRC, etc
- evidence that the relevant EEA citizen was resident in the UK and Islands for a continuous qualifying period of at least 2 years 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' LTE or LTR under condition 1 in rule EU14.

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.

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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 child under the age of 21 of a relevant European Economic Area (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 specific 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, the relevant EEA citizen (or the spouse or civil partner) either:

- has been, or is being, granted ILE or ILR under Appendix EU (or its equivalent in the Islands)
- is an Irish citizen who has not made a valid application under Appendix EU, and who would be granted that leave if they made such an 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)

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
- evidence that either:
  - the relevant EEA citizen (or their spouse or civil partner) has been or is being granted ILE or ILR under the scheme
  - 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 be granted ILE or ILR if they made such an application. For example, their valid passport or national identity card and evidence of 5 years' continuous residence in the UK
  - 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, be granted ILE or ILR if they made a valid application under Appendix EU. For example, their valid passport or national identity card as

an EEA citizen, evidence that they are a British citizen and evidence of 5 years' continuous residence in the UK

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' LTE or LTR under condition 1 in rule EU14.

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.

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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 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.

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 or with a qualifying British citizen.

Evidence about the relevant EEA citizen (or qualifying British citizen)

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), the applicant will need to provide:

- proof of the identity and nationality of the relevant EEA citizen (or qualifying British citizen) – 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) 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), 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) 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 or with a qualifying British citizen, 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) – see other evidence in assessing family relationship – which satisfies you either that:
  - the EEA citizen (or British citizen) was a relevant EEA citizen (or a qualifying British citizen) throughout any continuous qualifying period on which the applicant relies as being a family member of a relevant EEA citizen (or of a qualifying British citizen)
  - the EEA citizen is a relevant EEA citizen as described in sub-paragraph (b), (c) or (d) in the entry for 'relevant EEA citizen' in Annex 1 to Appendix EU

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). 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) 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) and that person has died
- they were resident in the UK as the family member of that relevant EEA citizen (or qualifying British citizen) 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), evidence which may be relevant to the requirements above includes:

- the death certificate of the relevant EEA citizen (or qualifying British citizen) 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). See assessing family relationship for the relevant evidence of this
- evidence that the applicant was resident in the UK as the family member of the relevant EEA citizen (or qualifying British citizen) 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) 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:

- are the child of a relevant EEA citizen (or qualifying British citizen) who has died or ceased to reside in the UK, or of their spouse or civil partner at that point
- were attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant EEA citizen (or qualifying British citizen) 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), 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 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). 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 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) 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

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) 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) on the termination of the marriage or civil partnership of that relevant EEA citizen (or of that qualifying British citizen), 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)
- they were resident in the UK at the date of the termination of the marriage or civil partnership

And one of the following applies, either:

- 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 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)
- the applicant has the right of access to a child of the relevant EEA citizen (or qualifying British 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 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), 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 applying on the basis that the marriage or civil partnership of the relevant EEA citizen (or of the qualifying British citizen) 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), 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 met the definition of a family member of a relevant EEA citizen (or of a qualifying British citizen) for the period of residence, prior to the termination of the marriage or civil partnership, on which they are seeking to rely (i.e. 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 applying on the basis that they have custody of a child of the relevant EEA citizen (or qualifying British citizen) or the right of access to a child of the relevant EEA citizen (or qualifying British citizen), 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 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, 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) 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) 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) 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). 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), they will be deemed to have ceased to be such a family member for the purposes of Appendix EU once the permanent breakdown occurred.

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) 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 (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 qualifying British 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

- the dependent parent of a relevant EEA citizen or qualifying British citizen who is aged under 18

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 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

- 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.

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Consideration of applications: 5 years' limited leave to enter (LTE) or limited leave to remain (LTR)

Under rule EU14, an applicant will meet the eligibility requirements for LTE or 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 ILE or ILR under Appendix EU solely because they have completed a continuous qualifying period of residence of less than 5 years

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 HMRC and DWP which may provide evidence that the applicant has completed a continuous qualifying period of residence in the UK of less than 5 years. See automated checks for further information.

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 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, please see refusals section below.

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

Official – sensitive: end of section

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Consideration of applications: eligibility

Where an applicant 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 (as set out in more detail below) and give them a reasonable opportunity in which to provide this before you make a decision on their application.

Where, as part of the application, the applicant has specified a preference for a specific method of contact, this must be the first method of contact attempted.

You must, subject to the next two paragraphs, make three attempts in total over a minimum of three weeks to contact the applicant by at least two different methods (where the applicant has provided the relevant contact details) – from, ordinarily, telephone call, text, email, letter – in order to give them a reasonable opportunity in which to provide more information or evidence.

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 particular 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 first-class 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.

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.

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.

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Consideration of an application under Annex 2 of Appendix EU

A valid application made under Appendix EU will be decided on the basis of:

- the information and evidence provided by the applicant, 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 applicant meets the eligibility requirements for indefinite leave to enter or remain or for limited leave to enter or remain, you may:

- request that the applicant 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 the applicant to be interviewed in person, by telephone, by video-telecommunications link or over the internet

If the applicant 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, including a qualifying British citizen, you may:

- request that that person provide information or evidence about their relationship with the applicant, their residence in the UK or, if that person is a qualifying British citizen, their residence in a country listed in sub-paragraph (a)(i) of the definition of ‘EEA citizen’ in Annex 1 to Appendix EU
- invite that person 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 applicant, or person with whom they claim to be in a relationship, 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 applicant 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 applicant 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 applicant 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 the applicant, or the person with whom they claim to be in a relationship, failed on at least two occasions to comply with an invitation to be interviewed.

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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 European Migration & Citizens' Rights Unit for further advice.

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Evidence of residence

Evidence required to establish residence in the UK

Many applicants will have their residence confirmed by automated checks of HMRC and DWP data. However, where those checks indicate that an applicant who does not hold a permanent residence document has been continuously resident in the UK for a period 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 ILE or ILR with less than 5 years' continuous residence.

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 six 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(s) 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(s) 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 appointment(s), or a card issued by the healthcare professional confirming those appointment(s) - 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

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Administrative review and Appeals

Anyone who makes a valid application under Appendix EU and is refused or is granted pre-settled status (limited leave to enter or remain), will be able to challenge the decision by administrative review and/or (depending on the date of application) by appeal.

Administrative review is available where an applicant is refused on eligibility grounds or where they are granted pre-settled status and believe they qualify for settled status.

An appeal is available (depending on the date of application) where an applicant is refused on eligibility or suitability grounds, or where they are granted pre-settled status and believe they qualify for settled status.

Administrative review

Where the application is refused on eligibility grounds or where pre-settled status is granted, and the applicant believes that the original caseworker has made an error or not followed the published guidance, or where they have new information or evidence in support of their application, they can apply for an administrative review of the decision.

A different caseworker in an independent team will conduct a full reconsideration of the decision, taking into account any new evidence or information submitted, and decide whether the original decision was either:

- correct and should be maintained
- incorrect and should be withdrawn and a new decision made

Further guidance is available in the Administrative Review: EU Settlement Scheme guidance.

Right of Appeal

Anyone who makes a valid application under Appendix EU on or after 11pm 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.

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 Immigration Rule under which it was made

Further guidance is available in the Rights of Appeal guidance.

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Rights of Appeal guidance