



HM Government

# The United Kingdom's Exit from the European Union

Safeguarding the Position of  
EU Citizens Living in the UK and  
UK Nationals Living in the EU



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UK Nationals Living in the EU

Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty

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# Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU

## Summary Proposals

1. In the Article 50 negotiations for the United Kingdom (UK) leaving the European Union (EU), our first priority is to reach agreement on the post-exit position of EU citizens<sup>1</sup> now living in the UK and of UK nationals<sup>2</sup> living in other EU countries. We will put those citizens first, and do all we can to provide reassurance to the EU citizens who have made the UK their home, and likewise for UK nationals who have done the same in countries across the EU.
2. EU citizens are valued members of their communities here, and we know that UK nationals abroad are viewed in the same way by their host countries.
3. The UK is one of the most tolerant and welcoming places in the world and will remain that way. EU citizens who came to the UK before the EU Referendum, and before the formal Article 50 process for exiting the EU was triggered, came on the basis that they would be able to settle permanently, if they were able to build a life here. We recognise the need to honour that expectation. The choice made in the Referendum was about our arrangements going forward, not about unravelling previous commitments.
4. Over one million UK nationals have moved to other countries in the EU, and many have built their lives there. Their ability to stay, and for life to continue much as it does now, depends on the agreement that is reached between the UK and the EU.
5. Our proposals as set out below are without prejudice to Common Travel Area arrangements between the UK and Ireland (and the Crown Dependencies), and the rights of British and Irish citizens in each others' countries rooted in the Ireland Act 1949. These arrangements reflect the long-standing social and economic ties between the UK and Ireland and pre-date both countries' membership of the EU. As such, we want to protect the Common Travel Area arrangements, and Irish citizens residing in the UK will not need to apply for settled status to protect their entitlements. We have also been clear that our exit will in no way impact on the terms of the Belfast Agreement. We will continue to uphold in that context the rights of the people of Northern Ireland to be able to identify as British or Irish, or both, and to hold citizenship accordingly.
6. The Government undertakes to treat EU citizens in the UK according to the principles below, in the expectation that the EU will offer reciprocal treatment for UK nationals resident in its member states:

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<sup>1</sup> For a detailed legal description of what the term 'EU citizen' refers to, please see the glossary.

<sup>2</sup> For a detailed legal description of what the term 'UK nationals' refers to, please see the glossary.

- until the UK's exit, while the UK remains a member of the EU, EU citizens resident here will continue to enjoy the rights they have under EU Treaties. We will comply in full with our legal obligations, including in respect of administrative procedures for providing documentation for those exercising Treaty rights;
- after we leave the EU, we will create new rights in UK law for qualifying EU citizens resident here before our exit. Those rights will be enforceable in the UK legal system and will provide legal guarantees for these EU citizens. Furthermore, we are also ready to make commitments in the Withdrawal Agreement which will have the status of international law. The Court of Justice of the European Union (CJEU) will not have jurisdiction in the UK;
- these rights will apply to all EU citizens equally and we will not treat citizens of one member state differently to those of another;
- qualifying EU citizens will have to apply for their residence status. The administrative procedures which they will need to comply with in order to obtain these new rights will be modernised and kept as smooth and simple as possible;
- the application process will be a separate legal scheme, in UK law, rather than the current one for certifying the exercise of rights under EU law. Accordingly we will tailor the eligibility criteria so that, for example, we will no longer require evidence that economically inactive EU citizens have previously held "comprehensive sickness insurance" in order to be considered continuously resident;
- all qualifying EU citizens will be given adequate time to apply for their new residence status after our exit. There will be no cliff-edge at the point of the UK's withdrawal from the EU;
- we guarantee that qualifying individuals will be granted "settled status" in UK law (indefinite leave to remain pursuant to the Immigration Act 1971). This means they will be free to reside in any capacity and undertake any lawful activity, to access public funds and services and to apply for British citizenship;
- to qualify, the EU citizen must have been resident in the UK before a specified date and must have completed a period of five years' continuous residence in the UK before they apply for settled status, at which point they must still be resident;
- those EU citizens who arrived and became resident before the specified date but who have not accrued five years' continuous residence at the time of the UK's exit will be able to apply for temporary status in order to remain resident in the UK until they have accumulated five years, after which they will be eligible to apply for settled status;
- those EU citizens who arrived after the specified date will be allowed to remain in the UK for at least a temporary period and may become eligible to settle permanently, depending on their circumstances – but this group should have no expectation of guaranteed settled status;
- family dependants who join a qualifying EU citizen in the UK before the UK's exit will be able to apply for settled status after five years (including where the five years falls after our exit), irrespective of the specified date. Those joining after our exit will be subject to the same rules as those joining British citizens or alternatively to the post-exit immigration arrangements for EU citizens who arrive after the specified date;

- the specified date will be no earlier than the 29 March 2017, the date the formal Article 50 process for exiting the EU was triggered, and no later than the date of the UK's withdrawal from the EU. We expect to discuss the specified date with our European partners as part of delivering a reciprocal deal; and
- we will apply rules to exclude those who are serious or persistent criminals and those whom we consider a threat to the UK.

7. In relation to benefits, pensions, healthcare, economic and other rights, in the expectation that these rights will be reciprocated by EU member states, the Government intends that:

- EU citizens with settled status will continue to have access to UK benefits on the same basis as a comparable UK national under domestic law;
- EU citizens arriving before the specified date who do not have five years' residence at the time of the UK's exit but who remain legally in the UK on a pathway to settled status will continue to be able to access the same benefits that they can access now – (broadly, equal access for workers/the self-employed and limited access for those not working). If these individuals go on to acquire settled status, they will then be able to access benefits on the same terms as comparable UK residents;
- existing rules on the rights of EU citizens and UK nationals to export UK benefits to the EU will be protected for those who are exporting such UK benefits on the specified date, including child benefit, subject to on-going entitlement to the benefit;
- the UK will continue to export and uprate the UK State Pension within the EU;
- the UK will continue to aggregate periods of relevant insurance, work or residence within the EU accrued before exit to help meet the entitlement conditions for UK contributory benefits and State Pension, even where entitlement to these rights may be exercised after exit;
- the UK will seek to protect the healthcare arrangements currently set out in EU Social Security Coordination Regulations and domestic UK law for EU citizens who arrive in the UK before the specified date and for UK nationals living in the EU before the specified date;
- the UK will also seek to protect the ability of individuals who are eligible for a UK European Health Insurance Card (EHIC) before the specified date to continue to benefit from free, or reduced cost, needs-arising healthcare while on a temporary stay in the EU. The UK will seek an ongoing arrangement akin to the EHIC scheme as part of negotiations on our future arrangements with the EU;
- the UK will ensure qualifying EU citizens who arrived in the UK before the specified date will continue to be eligible for Higher Education (HE) and Further Education (FE) student loans and 'home fee' status in line with persons with settled status in the UK.<sup>3</sup> Such persons will also be eligible to apply for maintenance support on the same basis they do now;
- to help provide certainty for EU students starting courses as we implement the UK's exit (including those who are not currently living in the UK), we have already confirmed that current EU students and those starting courses at a university or FE

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<sup>3</sup> Subject to respecting the devolution settlement and the constitutional position of the devolved administrations.

institution in the 2017/18 and 2018/19 academic years, will continue to be eligible for student support and home fee status for the duration of their course. We will also ensure that these students have a parallel right to remain in the UK to complete their course; and

- the UK will seek to ensure that citizens with professional qualifications obtained in the EU27 prior to the UK's withdrawal from the EU will continue to have those qualifications recognised in the UK (and vice versa).

8. The reciprocal agreement on citizens' rights will apply to the entire United Kingdom, covering Scotland, Wales, Northern Ireland and all parts of England, and Gibraltar. Decisions that are currently made by the devolved administrations and the Government of Gibraltar will continue to be made by them.

9. Obtaining documentation showing their settled status will enable EU citizens resident here to carry on living here lawfully. Moreover it will help them to demonstrate to employers and other service providers their ongoing rights to be in the UK and to enjoy entitlements to benefits and public services. It will demonstrate (to employers, for example) that the holder continues to enjoy these rights, irrespective of any different migration controls the Government may introduce with regard to newly arriving EU citizens following the UK's departure from the EU.

10. There is no need for EU citizens to apply now for EU documentation under the free movement rules to prove they are exercising Treaty rights or have a current right of permanent residence in order to secure their status post-exit. Nor will they need to apply for their new British settled status before our exit. However, we are planning to set up an application process before we leave the EU to enable those who wish to do so to get their new status at their earliest convenience. For those who have already obtained a certificate of their permanent residence, we will seek to make sure that the application process for settled status is as streamlined as possible.

11. We will discuss similar arrangements with Iceland, Liechtenstein, Norway and Switzerland (the European Free Trade Association (EFTA) States) on a reciprocal basis.

12. After the UK leaves the EU, free movement will end but migration between the UK and the EU will continue. We will continue to welcome the contribution EU citizens bring to our economy and society; the UK will remain a hub for international talent. The Government is carefully considering a range of options as to how EU migration will work for new arrivals post-exit and will publish proposals as soon as possible, allowing businesses and individuals enough time to plan and prepare.

# Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU

## Detailed Proposals

13. Until the UK withdraws from the EU, EU law will continue to apply and so the rights of EU citizens and their family members to live and work in the UK remain unchanged.

14. After we leave the EU, the UK will no longer be subject to EU law. Free movement rights will come to an end and therefore cannot be carried forward, as an EU legal right, into the post-exit UK legal regime.<sup>4</sup> From that point on, the future rights of EU citizens (and their family members) resident in the UK before our departure will depend on the commitments which we may jointly agree with the EU in the Withdrawal Agreement, or upon unilateral action by the Government. We expect to see equivalent guarantees put in place for UK residents in the EU.

15. The Government's objective is to ensure continuity in the immigration status of EU citizens and their family members resident in the UK before our departure from the EU (including their ability to access benefits and services). At the point that the UK leaves, EU citizens lawfully resident here (and their families) will be able to continue their activities in the UK. The Government will not discriminate between citizens from different EU member states in providing continuity for the rights and entitlements of existing EU residents and their families in the UK.

16. The UK fully expects that the EU and its member states will ensure, in a reciprocal way, that the rights set out above are similarly protected for UK nationals living across the EU before the specified date. Firstly, UK nationals in the EU must be able to attain a right equivalent to settled status in the country in which they reside. Secondly, they must be able to continue to access benefits and services across the member states akin to the way in which they do now.

### A new status in UK law

17. All EU citizens (and their families) in the UK, regardless of when they arrived, will, on the UK's exit, need to obtain an immigration status in UK law. They will need to apply to the Home Office for permission to stay, which will be evidenced through a residence document. This will be a legal requirement but there is also an important practical reason for this. The residence document will enable EU citizens (and their families) living in the UK to demonstrate

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<sup>4</sup> See for example *the Report of the Policy Department for Citizens' Rights and Constitutional Affairs: The impact and consequences of Brexit on acquired rights of EU citizens living in the UK and British citizens living in the EU-27* published on 2 May 2017.



to third parties (such as employers or providers of public services) that they have permission to continue to live and work legally in the UK. Following the UK's exit from the EU, the Government may wish to introduce controls which limit the ability of EU citizens (and their families) who arrive in the UK after exit to live and work here. As such, without a residence document, current residents may find it difficult to access the labour market and services.

18. For those EU citizens who became settled in the UK before a specified date, which the Government proposes will be no earlier than 29 March 2017, and no later than the date of the UK's withdrawal from the EU, we will, subject to their meeting limited criteria on application, give them a new settled status in UK law.

19. Obtaining this settled status will mean that this cohort of EU citizens whose residence started before the specified date will have no immigration conditions placed on their residence in the UK, provided that they remain resident here. They will be able to work or study here freely, live permanently in the UK with a partner who has settled or is a UK national, and have access to benefits and public services in line with UK nationals.

20. Settled status is not the same as citizenship – for example, holders of this status do not have a UK passport – but those with settled status and at least six years' residence may apply for citizenship. Settled status would generally be lost if a person was absent from the UK for more than two years, unless they have strong ties here.

21. Obtaining settled status will be subject to meeting certain requirements. The eligibility criteria will be set out in UK law, but the essential conditions will be:

- a requirement for the applicant to have been resident in the UK for a set length of time. We propose to align this with the current EU general standard for permanent residence – which is in most cases five years; and
- an assessment of conduct and criminality, including not being considered a threat to the UK.

22. The scheme we establish for applications from EU residents (and their families) for permission to stay will not be legally the same as the one which is currently available for those wishing to obtain confirmation of their residence status under the Free Movement Directive. The UK will no longer be bound by this Directive and will tailor the eligibility criteria, subject to any provisions contained in the agreement with the EU, to suit the demands of this unique situation. For example, we will no longer require evidence that economically inactive EU citizens have previously held “comprehensive sickness insurance” in order to be considered continuously resident. This will apply only for the purpose of determining their residence status: we will seek to protect the current healthcare arrangements for EU citizens, for example, to allow a tourist or student who presents a valid European Health Insurance Card (EHC) to be able to get treatment on the NHS (see paragraphs 47 to 49 for more detail).

## Avoiding a cliff-edge

23. EU citizens (and their families) will continue to enjoy the right to free movement until the UK's departure. As described above, all EU citizens (and their families) in the UK at this point will be entitled to apply for permission to stay after our departure. However, it will be impractical to issue a very high volume of residence documents immediately when the UK leaves. We need to avoid a legal gap between the end of free movement rights and the point at which individuals apply for and obtain UK immigration status. The Government will bridge

this gap so that EU citizens (and their families) already living in the UK will be able to continue their residence despite not yet having obtained their longer-term permission to stay, and accompanying residence documents, from the Home Office.

24. To achieve this, the Home Office will provide a period of blanket residence permission, to start immediately upon the UK's exit from the EU. This will be a generic "umbrella" of temporary leave<sup>5</sup> applying to all existing lawful EU residents (and their families), to give them a grace period between the moment that free movement ends and the time they obtain their residence document – allowing them to remain lawfully in the UK, and continue to undertake their lawful business during that interim period.

25. The blanket permission period will provide EU citizens (and their families) in the UK with sufficient time to make an application to the Home Office, and to receive their individual immigration status in the form of a residence document. For those EU citizens (and their families) lawfully resident here prior to the UK's departure, they will be able to continue to work or study here under the blanket permission period – they will not be required to leave the UK at the point the UK leaves. Once a residence document has been obtained, the blanket permission for that individual will automatically expire and be superseded by the individual residence permission.

26. The grace period of blanket permission will last from exit day for a fixed period of time, which we will specify in due course but which we expect to be up to two years. Those who wish to remain in the UK beyond this point will have to apply to the Home Office for their individual permission before the period of blanket permission expires. If they do not do so, and they are not covered by any exemptions the Government puts in place and have no other basis to remain in the UK, they will no longer have permission to remain in the UK.

### **Example case study: EU citizen with five years' residence before the UK's withdrawal from the EU.**

Andriana is a Greek national who will have been resident in the UK for ten years on 1 April 2019.

Andriana will continue to have the right to exercise her free movement rights to live and work in the UK up to the point that the UK leaves the EU. As Andriana has been living continuously in the UK for over five years (without an absence of more than two years after that five years), she also immediately qualifies for settled status.

This means she can apply for settled status under the new UK scheme once it is open. Once she has received her status and document she does not need to do anything further after the UK leaves the EU. Andriana will have successfully secured her immigration status in UK law.

Andriana does not need to apply immediately for settled status. She can remain in the UK after exit and continue her activities, during the grace period of blanket permission. However, she must apply to the Home Office for permission to stay before this grace period expires if she intends to carry on living in the UK afterwards.

<sup>5</sup> This is known as 'deemed leave' in UK law, under the Immigration Act 1971.

## EU citizens who were resident before the specified date

27. EU citizens (and their families) who already have five years' continuous residence in the UK by the date of our departure or by the end of the grace period, will be eligible for a grant of settled status provided they have proof of five years' residence at the time of their application (we will set out separately the evidence we want to see as proof of residence).

28. There will be some EU citizens who were resident in the UK before the specified date but who will not have obtained settled status or met the five years' residence requirement by the end of the grace period of blanket permission. They will be allowed to stay in the UK until they reach the five year point, but they will need to apply to the Home Office for permission for this (leave to remain). At the five year point, they will be able to apply for settled status.

### **Example case study: EU citizen who arrived before the specified date and has not completed five years' residence before the UK's withdrawal from the EU.**

Christophe is a French teacher who arrived before the specified date and will have been in the UK for four years at the point the UK withdraws from the EU.

After the UK leaves the EU, Christophe will be able to continue to live and work in the UK during the grace period of blanket permission without having to make an application. Once Christophe has been resident for five years, which will be before the end of the grace period, he will be entitled to apply for settled status which will allow him to settle in the UK permanently.

### **Example case study: EU citizen who arrived before the specified date but has not completed five years' residence by the end of the grace period.**

Lukas is an Austrian national who came to work in the UK before the specified date. He will have been resident in the UK for two years at the point the UK withdraws from the EU.

After the UK leaves the EU, Lukas will be able to continue to live and work in the UK during the grace period of blanket permission without having to apply for any permission. He must apply to the Home Office for temporary residence document if he wishes to continue to reside in the UK after the grace period. This will enable him to continue lawfully living and working in the UK while completing five years' residence.

Once Lukas has been resident for five years he will be entitled to apply for settled status which will allow him to settle in the UK permanently.

## Family Members

29. Family members<sup>6</sup> of eligible EU citizens (who can be either EU citizens or non-EU nationals) who are resident in the UK before we leave the EU will also be eligible to apply for settled status, provided that they too meet the criteria above and have been in a genuine relationship with an eligible EU citizen while resident in the UK. Family members who do not

<sup>6</sup> Includes direct family members (spouse/civil partner, direct descendants in the descending line (under 21 or dependent), direct dependants in the ascending line), including those with retained rights, and extended family members whose residence has previously been facilitated by the Home Office.

yet have five years' residence will also be eligible to apply for permission to stay ('leave to remain') to enable them to accrue these. Most EU citizens will be eligible for the settlement scheme in their own right (rather than as a family member of a resident EU citizen), so this will be most relevant to non-EU national family members. However, EU citizens will be able to access the scheme as a family member if they wish to and can evidence their relationship.

### **Example case study: child born to EU citizen parents qualifying for settled status**

Audra and Ignas moved to the UK from Lithuania in 2015. They are married and are expecting a baby later this year.

After the UK leaves the EU, Audra and Ignas will be able to stay in the UK as now during the grace period without having to apply for permission to do so. Once they have been resident for five years, in 2020, they will be entitled to apply for settled status which will allow them to settle in the UK permanently.

When their child is born later this year, their son or daughter will also have the opportunity to stay permanently in the UK. Once they acquire settled status, Audra and Ignas will need to apply for settled status on their child's behalf. Or they can instead choose to register their child as a British citizen.

30. *Future* family members of those EU citizens who arrived before the specified date – for example a future spouse – who come to the UK after we leave the EU, will be subject to the same rules that apply to non-EU nationals joining British citizens, or alternatively to the post-exit immigration arrangements for EU citizens who arrive after the specified date.

31. Children of EU citizens eligible for settled status will also be eligible to apply for settled status. This applies whether those children were born in the UK or overseas, and whether they were born or arrived in the UK before or after the specified date. Specifically, children of EU citizens who hold settled status and are born in the UK will automatically acquire British citizenship (and with that, the right to live in the UK). EU resident parents who arrived before the specified date, but who need to apply for permission to stay ('leave to remain') post-exit in order to meet the five year residence requirement, will also need to apply for the same permission on behalf of their child when their child is born.

## **EU citizens who arrive after the specified date**

32. If the UK and the EU agree to apply a specified date prior to the UK's withdrawal from the EU, those EU citizens and their family members who arrive in between the specified date and the date the UK leaves the EU will continue to exercise free movement rights up until the point the UK leaves the EU. From then on, the grace period of blanket permission will apply to them, while they make an application to the Home Office for permission to stay ('leave to remain'), in accordance with the new rules applying to EU citizens, which are yet to be determined. If the specified date is set at the date of the UK's withdrawal from the EU, these new post-exit arrangements would automatically apply to EU citizens and their family members who arrive after that date.

33. The ability of EU citizens arriving after the specified date subsequently to obtain further or indefinite permission to stay will depend on the rules in place at the time at which they apply. These will be decided by the UK closer to the time.

34. The Government will ensure those students who start a higher or further education course in or before the 2018/19 academic year will be eligible to apply for permission to stay here in order to complete their course (see paragraphs 50-54 for more detail).

### **Example case study: EU citizen who has arrived after the specified date**

Aisha is a German national who arrived in the UK after the specified date. She is self-employed and would like to settle in the UK. If the specified date is pre-exit, Aisha can still exercise her free movement rights to live in the UK until the UK leaves the EU.

However, once the UK leaves the EU, Aisha's free movement rights will end. Like Christophe, Aisha will not be required to leave the UK when we exit the EU, she will be able to stay during the blanket permission period – but she must apply for permission to stay ('leave to remain') here beyond that period. If Aisha successfully applies for permission to stay, she will be granted a temporary residence document.

If Aisha wishes to stay in the UK after her temporary permission expires, she will need to obtain further permission. Her eligibility for further permission will depend on the rules in force at that time. Unlike Christophe, she is not guaranteed to be eligible to apply for permission to stay in the UK permanently.

## **Application process**

35. Our aim is to make the application process as streamlined and user-friendly as possible for EU citizens and their families lawfully resident in the UK. We intend to use existing government data, such as income records, to minimise the burden of documentary evidence required (for example, to prove continuous residence). It is likely that those EU citizens and their family members who wish to take advantage of the streamlined digital process will need to provide evidence of their passport to prove their identity. The Home Office may also need to capture evidence of EU citizens' biometric information during the application process to protect against fraud.

36. We recognise the cost of the new scheme will be important for EU nationals. The UK intends to set fees at a reasonable level. We will publish further details in due course.

37. There is no need for EU citizens to seek residence documentation now under the current free movement rules. These documents confirm that EU citizens are exercising their free movement rights in another member state. As free movement rights will end on the UK's exit, we intend to introduce a replacement scheme under UK law. EU documents certifying permanent residence will not be automatically replaced with a grant of settled status, but we will seek to make the application process for settled status as streamlined as possible for those who already hold such documents.

## **Voluntary scheme to obtain settled status before the UK's departure**

38. We have been clear that EU citizens will enjoy all of their current residence rights until the new UK legal regime described above begins after our exit from the EU, and they will have time to secure their new status post-exit. However, the Government does intend to introduce

a voluntary scheme to enable eligible EU citizens to apply for their permission to stay and residence document before the UK's withdrawal from the EU. This will enable them to obtain their UK immigration status at an early stage, should they wish to do so, in order to ensure as smooth and efficient process as possible for EU residents here. Details will be advertised in due course.

39. After our departure, it will become mandatory to apply for permission to stay in the UK. The eligibility criteria (as set out above) will be the same as under the voluntary system. As set out in paragraphs 23 and 26, there will be a grace period of blanket permission to allow EU citizens and their families time to apply for permission.

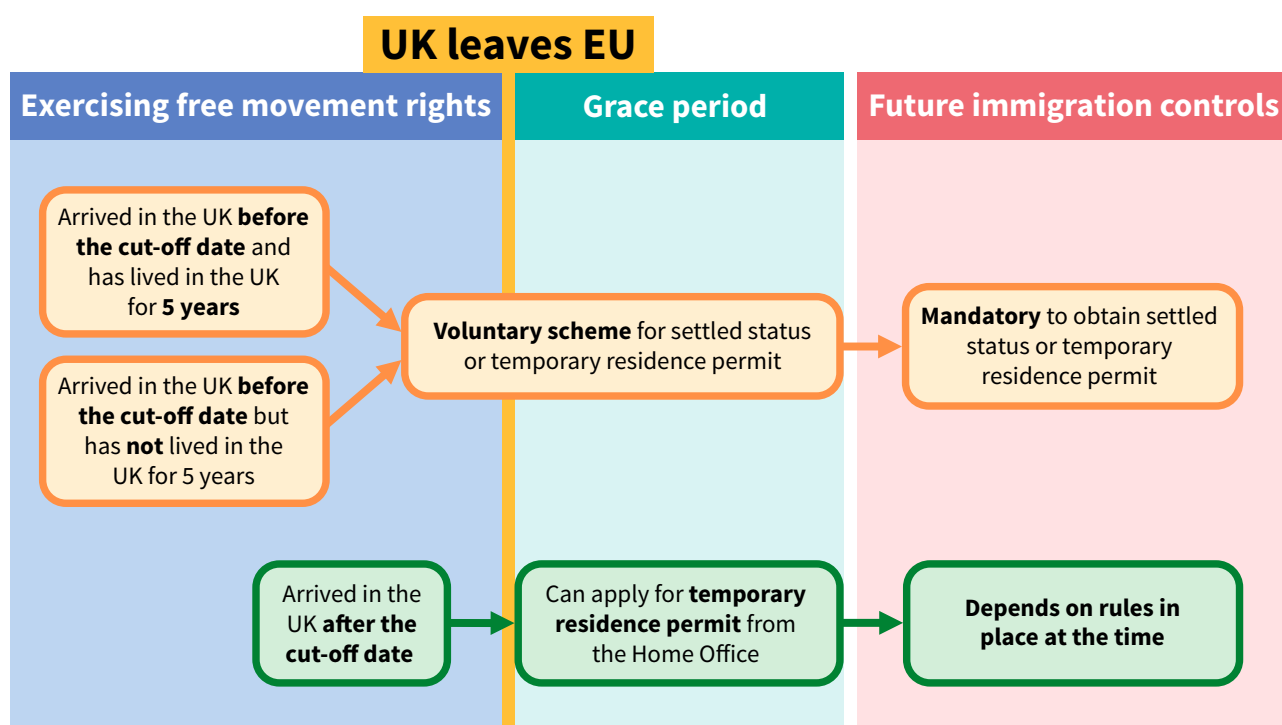


Figure 1: Illustration of the Government's policy with regard to providing continuity of immigration rights for EU citizens and their families following the UK's exit from the EU.

## Benefits, pensions and social security contributions

### Benefits access in the UK

40. It is our intention that those who have settled status will be treated in the same way as comparable UK nationals for benefit purposes – whether in work, studying, or job-seeking. We will also seek to protect UK nationals' rights to access benefits on the same basis as nationals of the member state in which they reside. It will be important, for example, to ensure that a UK national working in Spain who becomes incapacitated and unable to work can access Spanish sickness benefits.

41. EU citizens arriving before the specified date, who do not have five years' residence at the time of the UK's exit but who remain legally in the UK on a pathway to settled status will continue to be able to access the same benefits that they can access now – broadly equal access for workers/the self-employed and limited access for those not working. It is our intention that this benefits regime – which is not the regime UK nationals and those with settled status will be subject to – will remain in place for those on the pathway until they

achieve settled status but no element of this will be more generous than the approach taken for those EU nationals with settled status. If these individuals go on to acquire settled status, they will then be able to access benefits on the same terms as comparable UK residents.

### **Export of UK benefits to the EU**

42. Existing rules on the rights of EU citizens and UK nationals to export UK benefits to the EU will be protected for those that are exporting such UK benefits on the specified date, including child benefit, subject to on-going entitlement to the benefit. Those not exporting UK benefits at the specified date will be treated on the same basis as UK nationals in future. We will need to ensure that we have the necessary arrangements in place for information and data to continue to be shared between the UK and EU in respect to benefits, and that UK nationals in the EU are protected in the same way.

### **Coordination of social security systems between the UK and EU**

43. The UK intends to continue to apply the rules for determining which country is responsible for deciding entitlement and to aggregate periods of relevant insurance, work or residence within the EU made before exit to help meet the entitlement conditions for UK contributory benefits and State Pension even where entitlement to these rights may be exercised after exit. We would expect member states to do the same for their contributory benefits and pensions.

### **Pension up-rating**

44. UK law already provides that UK state pensions are payable to anyone eligible, wherever they reside in the world. But annual increases to the UK state pension (known as 'uprating') to anyone living in the EU are payable because of EU law. The UK intends to continue to export and uprate the UK State Pension within the EU, subject to reciprocity.

## **Public Services**

45. Currently EU citizens living in the UK and UK nationals residing in the EU enjoy access to public services such as healthcare, education and social housing. Our clear intention during negotiations is to ensure that these individuals continue to enjoy these entitlements and healthcare arrangements.

46. The UK fully recognises that those EU citizens resident in the UK before the specified date, and UK nationals resident in EU member states, are beneficiaries of these services and we would want this to continue by agreement with the EU. UK nationals resident in the EU before a specified date will benefit in the same way from such an agreement.

### **Healthcare**

47. EU healthcare arrangements are set out in the same Regulations as rules on exportability of benefits, pensions and protection of worker contributions to ensure coordination between member states allowing individuals to move within the EU. These Regulations enable those who have moved to the EU and continue to receive a UK benefit or draw a UK state pension to receive healthcare cover by the UK (reciprocal healthcare arrangements) in their country of residence. The Regulations also enable UK-insured residents

to obtain a European Health Insurance Card, allowing them to benefit from free, or reduced cost, needs-arising healthcare while on a temporary stay in the EU.

48. EU citizens currently in the UK are eligible for NHS-funded healthcare in the same way as a UK national who is resident in the UK, if they can show they are ‘ordinarily resident’ in the UK. In addition, those who present valid documentation (for example, a tourist or student who presents an EHIC) receive treatment on the NHS, the cost of which is reimbursed to the UK by the member state which provides the individual’s insurance.

49. During negotiations, the UK will seek to protect the healthcare arrangements currently set out in EU Regulations and domestic UK law for UK nationals and EU citizens who benefit from these arrangements before the specified date. We will also seek to protect the right of UK nationals and EU citizens to obtain and benefit from the European Health Insurance Card scheme. This will ensure that EU citizens are still eligible for NHS funded healthcare in the UK and vice versa for UK nationals in the EU.

### **Example case study: UK nationals currently residing in another EU Member State with UK-insured healthcare.**

Sarah is a UK national who retired to Spain in 2005. She is drawing a UK state pension and has a UK S1 form registered in Spain. The S1 form is a standard EU certificate which demonstrates an individual’s entitlement to healthcare in their country of residence. Individuals are required to register the S1 document in their new EU Member State of residence. This means that the UK reimburses Spain the cost of providing medical treatment to her.

Sarah has a UK issued EHIC, which she can use if needed during temporary visits to another EU country (not the UK).

After the UK leaves the EU, we want to secure Sarah’s current healthcare entitlements so that they will continue on the same basis.

## **Education**

50. EU citizens are able to apply for a place to study on higher education and further education courses in other member states. If successful, they currently enjoy access to higher education and further education courses on broadly the same terms as nationals of that member state.

51. EU citizens who meet the current eligibility requirements and study at UK universities are eligible for ‘home fee’ status on the same basis as those with settled status. They are also able to apply for higher education and further education tuition fee loans as well as grants and maintenance support. The precise entitlement to student support differs across the different parts of the UK.

52. We want existing rights and arrangements for qualifying EU citizens who arrived in the UK before the specified date and who will study here to be respected and maintained across the whole of the UK<sup>7</sup>. For example, in England, this means they will continue to be eligible

<sup>7</sup> Subject to respecting the devolution settlement and the constitutional position of the devolved administrations which, as above, may allow the precise entitlements to student support to be varied in different parts of the UK.



for tuition fee loans and home fee status, as well as being eligible to apply for maintenance support on the same basis as they can now.

53. The UK's world-class universities attract many EU and international students alike. We want to encourage this and ensure EU students continue choosing UK universities.

54. To help provide certainty for EU students starting courses as we implement the UK's exit, we have already confirmed that current EU students and those starting courses at an English university or further education institution in the 2017/18 and 2018/19 academic years will continue to be eligible for student support and home fee status for the duration of their course. We have also confirmed that EU citizens will also remain eligible to apply for Research Council PhD studentships at UK institutions for the 2017/18 and 2018/19 academic years. We will also ensure that these students have a parallel right to remain in the UK to complete their course.

### **Example case study: EU citizens intending to study in UK universities**

Agnieszka is a Polish national who has lived in England since February 2017 and is intending to stay here and apply to study at an English university after the UK has left the EU. Prior to arriving in the UK, Agnieszka had lived in Poland for her entire life.

Under existing student finance rules (and assuming she meets relevant eligibility requirements), Agnieszka will be awarded home fee status and will be able to access a fee loan both of which will continue for the duration of her course. Under the relevant eligibility requirements, Agnieszka needs to have lived in the EU for three years prior to study to qualify for a tuition fee loan and home fee status.

The UK intends to maintain Agnieszka's entitlements to student support and home fee status once we leave the EU, in line with persons settled in the UK.

## **Economic and other relevant rights**

55. There is, of course, a much wider suite of rights derived from EU law which play an important role in the daily lives of EU citizens in the UK and UK nationals in the EU. These include economic rights, such as setting up and running a business and the mutual recognition of professional qualifications, and other matters such as the recognition of pet passports.

56. For mutual recognition of professional qualifications, the UK will seek to ensure that professional qualifications obtained prior to the date of the UK's withdrawal from the EU continue to be recognised after the UK's exit from the EU. The UK will also seek to ensure that where a person has begun an associated process that has not concluded by the withdrawal date, arrangements will be made to allow that process to continue. The UK will also give due regard to these professionals' ability to practise without unfair detriment or discrimination.

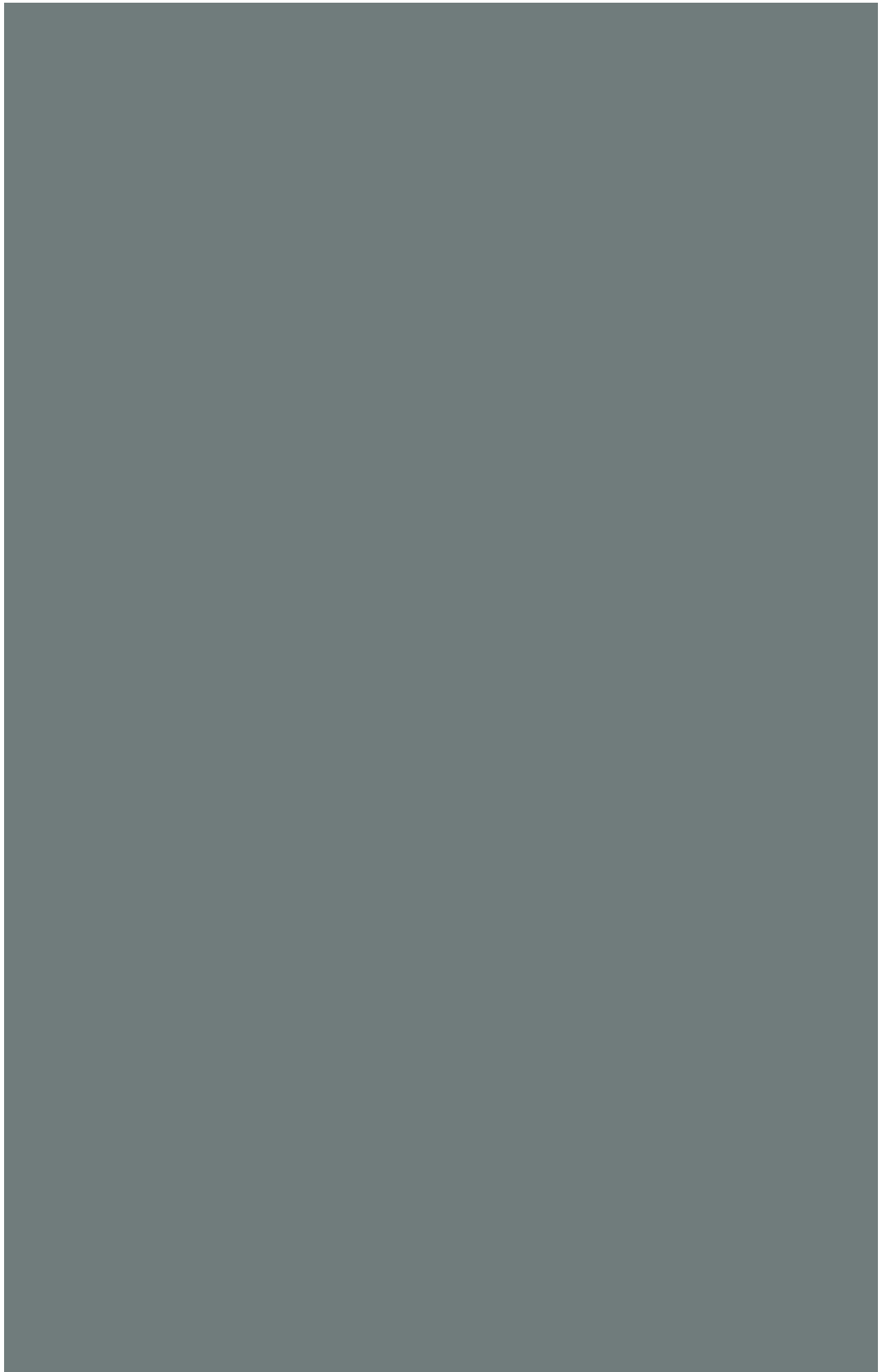
57. With regard to other economic rights, the UK will seek to protect the right of establishment (the right to be self-employed and to set up and manage an undertaking) for EU citizens resident in the UK before the specified date and vice versa. We will also seek to ensure that UK nationals in the EU can continue to provide cross-border services within the EU27.

## Legal status and enforceability

58. The arrangements set out above will be enshrined in UK law and enforceable through the UK judicial system, up to and including the Supreme Court. We are also ready to make commitments in the Withdrawal Agreement which will have the status of international law. The Court of Justice of the European Union (CJEU) will not have jurisdiction in the UK.

## Further information

59. For those who would like to understand more about the Government's proposals, you can sign up for email alerts here: <https://www.gov.uk/guidance/status-of-eu-nationals-in-the-uk-what-you-need-to-know>



# Glossary

**Citizenship:** People born before 1 January 1983 became British citizens if they were a citizen of the United Kingdom and Colonies with the right of abode in the UK immediately before that date. This generally included people born in the UK or a former colony who had a connection with the UK through birth, descent or residence. Since 1983 British citizenship can be acquired through birth in the UK to a British or settled parent, adoption in the UK by a British citizen, descent from a parent, or through registration or naturalisation. All British citizens have the right of abode in the UK.

**Common Travel Area (CTA):** The CTA comprises the United Kingdom, the Crown Dependencies (the Channel Islands and the Isle of Man) and the Republic of Ireland. Movement without immigration controls for nationals of the CTA is important in the special relationship that exists between these states.

**EU citizen:** Refers to any person who holds EU citizenship as established under Article 20 (1) of the Treaty on the Functioning of the European Union, save that for current purposes, persons who are EU citizens solely by way of their British nationality are excluded from the scope of this term. That Article provides “Citizenship of the Union is hereby established. Every person holding the nationality of a member state shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.” However, member states may withhold EU citizenship from certain groups of citizens, most commonly those in overseas territories of member states outside the EU.

**Free movement:** Free movement of people is one of the founding principles of the EU and is enshrined in the Treaties. The Directive 2004/38/EC (commonly known as the ‘Free Movement Directive’), provides further detail on the rights of entry and residence and is currently implemented in the UK through the Immigration (European Economic Area) Regulations 2016.

The right of free movement allows EU citizens exercising Treaty rights, and their family members, to move and reside freely within the territory of the EU. Under free movement, EU citizens also enjoy equal treatment with domestic nationals in terms of access to employment, working conditions and all other social and tax benefits.

**Indefinite leave to remain (ILR):** Indefinite leave to remain is also known as settlement or ‘settled status’, and having this means that a person can stay in the UK without any time restrictions. Indefinite leave can lapse, if the holder stays outside the UK for a continuous period of more than two years.

**Leave to remain:** A person who holds this immigration status has a time limit on his or her stay. In the context of this document, resident EU citizens granted this status under our proposed scheme would not be subject to further conditions, for example restrictions on employment or study.

**Permanent residence:** Under EU law, permanent residence is the right to live permanently in the UK. This right can be gained by European Economic Area (EEA) and Swiss nationals and their family members. Permanent residence is automatically gained when an EEA or Swiss national has lived legally in the UK for, in most cases, five years as a 'qualifying person' under the Immigration (EEA) Regulations 2016. This means they have been exercising their Treaty rights, for example, through working or studying. This status is equivalent to having indefinite leave to remain under the Immigration Act 1971 (see above).

**Permission:** Permission to stay in the UK as described in this document means that a person has leave to enter or remain under the Immigration Act 1971.

**Right to reside:** This is a term used specifically for EEA nationals or their family members. They have an initial right to reside for three months, and then can reside in the UK if they are qualified persons (exercising a Treaty right). Following five years' residence in the UK in accordance with the EEA regulations, they automatically acquire a permanent right to reside.

**UK nationals:** A UK national is the term referred to in this document to describe those people who are regarded as UK nationals for EU law purposes. The term "United Kingdom national" is not defined in the nationality law of the United Kingdom. However, the UK has made various declarations setting out the definition of its nationals for Community/EU law purposes. As of the declaration made by the United Kingdom in 1982 (OJ C 23), the term 'UK national' generally when used for EU purposes is *'to be understood to refer to: a) British citizens, b) Persons who are British subjects by virtue of Part IV of the British Nationality Act 1981 and who have the right of abode in the United Kingdom and are therefore exempt from United Kingdom immigration control, and c) British Dependent Territories citizens who acquire their citizenship from a connection with Gibraltar.'* The UK affirmed this definition in a further declaration annexed to the Final Act of the Intergovernmental Conference which Adopted the Treaty of Lisbon (OJ 2010 C 83/335), with the exception of an update so that the reference to 'British Dependent Territories Citizens' (as referenced above at point c) should be read as meaning 'British overseas territories citizens'.

**UK-insured individual:** An individual who is subject to the legislation of the UK under social security coordination rules. For the purpose of healthcare, it is the member state responsible for covering an entitled individual's healthcare when they move/travel around the EU.



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