




Myerson Brexit Team

Guidance Note for Employers on Settled Status

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This guidance note is aimed at employers to enable them to understand the EU Settlement Scheme (the Scheme) and to assist with communication with their EU, EEA or Swiss employees about the Scheme.

What is the purpose of the Scheme?

The UK left the EU on 31 January 2020. The Brexit transition period, which temporarily preserved the freedom of movement rights of UK and EU citizens in the UK until 31 December 2020, has ended.

This means that EU, EEA and Swiss individuals citizens living and working in the UK must act now to ensure that they have secured permission to remain from 1 January 2021 onwards.

There is no obligation to apply but, provided they were resident in the UK by 31 December 2020, EU citizens (and their families) could be eligible to obtain settled status under the Scheme, granting them leave to maintain their residence and employment in the UK.

Individuals do not need to apply to the Scheme if they are a British or Irish citizen or if they have already been given indefinite leave to remain in/or enter the UK.

A new immigration system now applies to EU citizens arriving in the UK from 1 January 2021 onwards. They will no longer enjoy freedom of movement rights and they will also have missed the cut-off point for the Scheme so, instead, they will need to meet the criteria of the new immigration rules ([click here](#) for an overview of the new immigration system).

What should employers be doing right now?

- Employers are under no legal obligation to consult with employees about the Scheme. However, employers that rely on EU workers will want to engage with them to try and prevent unexpected gaps in the workforce.

Employers should raise awareness of the Scheme amongst their EU employees or new starters. The deadline for applications from qualifying employees is 30 June 2021.

- An employer has a duty not to discriminate against EU citizens on the basis of their race or ethnicity and EU citizens can legitimately show their passports as proof of the right to work in the UK until 30 June 2020. Therefore, whilst employers would do well to enquire about an individual's potential settled status, they must be careful in how they approach the topic.
- Employers can – and should – word offers of employment and contracts of employment as being subject to a new employee holding the necessary permissions to live and work in the UK.

How should an employee apply?

A short online application needs to be completed. The application requires:

- Personal details;
- Proof that the individual lives in the UK; and
- A declaration of any criminal convictions.

An individual will usually be granted settled status if the individual has lived in the UK for a continuous five-year period (known as 'continuous residence'). Once granted, the individual will be able to continue living and working in the UK after 30 June 2021.

If an individual does not have five years' continuous residence but has lived in the UK since 31 December 2020 when they apply, they will usually be granted pre-settled status. An individual can then stay in the UK for a further five years before re-applying for permanent leave to remain.

Successful applications will result in a grant of settled status or pre-settled status, depending on how long an individual has lived in the UK. They will receive digital confirmation of their immigration status through the government's online service. A letter will also be emailed to the individual confirming their settled or pre-settled status. However, the letter itself does not prove status and employers should request sight of the digital confirmation receipt.

The link to apply for settled status is: <https://www.gov.uk/settled-status>

Available support

Support is available for those who require further assistance with an application to the EU settlement scheme:

- Call the EU Settlement Resolution Centre if there are questions about an application on 0300 123 7379 or send a message using the online form: <https://www.gov.uk/contact>
- Read translated guidance on the EU Settlement Scheme: <https://www.gov.uk/guidance>



You're in safe hands!

If you would like further information about how we can help you, or if you have any questions, please don't hesitate to contact a member of our Employment Team today.

Call: 0161 941 4000

Click: www.myerson.co.uk/business/brexit

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black and
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