



EU Staff – Key Points for Employers from January 2021

From 1 January 2021 free movement ends for EU citizens and their families

All those EU staff here before 31 December 2020 are protected – they will usually have the right for their families to join them in the UK after that date

Here we answer some FAQs for employers and their EU staff – get in touch if your questions are not answered here

<p>Is there still time to recruit staff from the EU under free movement rules?</p>	<p>Yes, up to 31 December 2020. An application for pre-settled status is straightforward if the individual is currently in the UK</p> <p>If an EU citizen has previously worked in the UK without applying for any form of residence document, they may be able to apply for pre-settled status from abroad so long as they have been physically present in the UK in the past 6 months</p>
<p>What right to work checks must I conduct?</p>	<p>These checks apply to all staff, British or from overseas</p> <p>Employers can continue to accept EU passports and ID cards as proof of right to work until 30 June 2021</p> <p>Non-EU nationals continue to provide evidence as before:</p> <ul style="list-style-type: none"> • Obtain employee’s original identity document listed in Home Office guidance • Check the documents are valid with the employee present • Copy and keep the documents securely; record the date of the check
<p>My employee has a residence card, registration certificate or confirmation of permanent residence under the EEA Regulations – how long</p>	<p>Until 31 December 2020, when this document becomes obsolete and will only have residual value. They should apply by 31 December for a new confirmation of status under the EU Settlement Scheme (EUSS)</p> <p>If they don’t the Home Office plans to legislate to allow them to benefit from EU free movement rights so long as they haven’t lost those rights through absence from the UK of more than 5 years, and they make an application under EUSS by 30 June 2021</p>

can they continue using it?	
My employee arrived in the UK before 31 December 2020 – what’s their deadline for applying for some form of status?	They’ll need to submit an application under EUSS before 30 June 2021 . However, if they can’t do so, the Immigration Rules allow them to apply late if they have good reason
What if the employee arrives after 1 January 2021?	They will need to meet the requirements of relevant Immigration Rules. The Home Office has published a short guide for EU nationals looking to work or study in the UK from January 2021 You are likely to require a sponsor licence to employ EU citizens after that date
Your employee has EUSS status – what is the deadline for their family members joining them in the UK?	There are currently no deadlines for family members where the relationship was formed before 31 December 2020 For applications by family members after 1 July 2021 , the Immigration Rules require them to be made within 3 months of arrival in the UK, and in any event before 1 January 2026 Note that, with some exceptions, after 1 December 2020 the family member will not be able to enter the UK as a visitor and apply – this is specifically excluded in the Immigration Rules
What is the cut-off age for child dependants?	Under EU free movement rules and the UK’s EUSS scheme, any child under 21 can qualify as a dependant. If 21 or over, dependency has to be shown
Can my employee extend EUSS pre-settled status beyond 5 years?	Yes. They may have to do this if, for example, they have criminal convictions that exclude them from applying for settled status
Your employee has pre-settled status, but will be spending time outside the UK in future – can they still qualify for settled status after 5 years?	The Immigration Rules say they must complete a continuous qualifying period in the UK; they set a limit on absences of 6 months in any 12 month period, but they may be permitted a single absence of up to 12 months in your 5 years’ residence for an important reason
I wish to employ someone who lived in the UK for more than 5 years in the past, but left and now lives abroad – can they still get any benefit from past residence?	Yes, potentially. The Home Office plans to introduce legislation which will protect past residence, and allow an application for settled status, so long as they haven’t been absent from the UK for more than 5 years at date of application They must still apply under EUSS by 30 June 2021, and can submit the application from abroad

These FAQs are based on our understanding of Immigration Rules as published on 22 October 2020; they may be amended before they enter into force between 1 and 31 December 2020. You should seek bespoke legal advice about individual circumstances.