

EU Settlement Scheme - Right to work guidance, supporting your clients and Home Office Webinars

The EU Settlement Scheme enables EU and EEA citizens and their family members to apply for an immigration status ([settled or pre-settled status](#)) that will allow them to live lawfully in the UK after "Brexit". **The deadline for applications is 30 June.**

It is strongly recommended that anyone who is eligible and hasn't yet applied should apply as soon as possible.

We have written to you previously about the scheme and those emails encouraged members to communicate with staff about the changes, which you may still wish to do. This message is to draw your attention to the new right to work guidance and to webinars that the Home Office are running. It also highlights again that this may affect the people that you support.

Disclaimer: The information in this email is intended to inform members about how to find out more and does not constitute legal advice. The information contained in this update is provided on an "as is" basis with no guarantees of completeness, accuracy, usefulness or timeliness but is accurate to the best of our knowledge at the time of writing.

Right to work guidance

[Right to work checks: an employer's guide](#) was updated last Friday, 18 June, with changes to the way EEA citizens can evidence their right to work from 1 July 2021. [This is recommended reading.](#)

Five key points when hiring new employees from 1 July:

1. Citizens of the Republic of Ireland continue to have unrestricted access to work in the UK, with appropriate evidence of nationality etc. and do not need to apply to the EUSS (see p.39).
2. The majority of EU and EEA nationals are likely to provide you with evidence of their right to work via a share code to access the [online](#)

- [right to work check](#). Details of how to use the system and properly conduct a check are included [in the employer's guide \(p.13-17\)](#).
3. While people with Settled Status have a continuous right to work, people with Pre-Settled Status will have a time-limited right to work and you will need to conduct a follow up check at an appropriate point (see p.40).
 4. There are EEA citizens who will have the right to work even if they don't have Settled or Pre-Settled status. These include, but are not limited to, people who have outstanding EUSS applications and Frontier Workers (see p.40).
 5. People who have applied to the EUSS retain the right to work until their application is finally determined, but you will need to undertake appropriate checks to ensure that their application is outstanding (see p. 43-44).

What about existing employees?

Regarding existing employees, the Home Office guidance (p.39) says:

"There is no requirement for a retrospective check to be undertaken on EEA citizens who entered into employment up to and including 30 June 2021. You will maintain a continuous statutory excuse against liability for a civil penalty if the initial checks were undertaken in line with this guidance. If you choose to carry out retrospective checks, you must ensure that you do so in a nondiscriminatory manner. The [Code of practice for employers: avoiding unlawful discrimination while preventing illegal working](#) provides practical guidance on how to avoid unlawful discrimination when renting to individuals and conducting right to work checks."

If you become aware that an EEA citizen in your workforce (who you employed in good faith, having undertaken relevant checks prior to 30 June 2021) has not applied to EUSS by the deadline, there are certain circumstances in which people can make late applications on the basis that they had reasonable grounds to miss the deadline (see [EUSS Home Office Caseworker Guidance](#) for more on reasonable grounds). There is a transitional process in place until 31 December 2021 that may allow for continued employment if someone applies to EUSS late. This is [detailed on p.45-46 of the guidance](#).

Home Office Webinars

The Home Office is hosting a number of webinar sessions on the EUSS covering:

- Who needs to apply?
- What is Settled/Pre-Settled Status ?
- Late applications
- Right to Work Checks
- Support for EU Nationals
- Q&A

You can sign up to one of these sessions using the registration links below:

- [Wed 30 Jun 2021 at 13:00](#)

Potential impact on the people you support

EEA nationals or their family members who are using social care services may need to apply for [settled and pre-settled status](#) but may not realise that they need to do so, or may not know how to access the support that they need in order to apply. [There are reports](#) that applications from older people are lower than might be expected.

Homecare providers are not required to check whether the people they support have applied to the EU Settlement Scheme. Providers may wish to contact their local authority to find out what measures they are taking to support local people who also use social care services.

People not having applied by the deadline may generate an increased risk of homelessness or destitution. This is because a change of immigration status could (amongst other things) affect a person's ability to access some benefits, their ability to rent, hold a bank account, access free secondary healthcare and could ultimately lead to removal proceedings/immigration detention.

There is some leeway for late applications for people with care or support needs or those who lack physical or mental capacity. The [EUSS Home Office Caseworker Guidance](#) now contains details of when there may be reasonable grounds for missing the deadline.

Although you should not provide immigration advice unless you are registered to do so, if you identify a person you support who is an EU or EEA national and who has not applied to the Settlement Scheme, you can support them to get in touch with people who can give them immigration advice or legal advice and help them to apply - before 30 June if possible; or, if not, to make a late application (see links below).

Whilst social care is available regardless of immigration status, it is subject to a needs assessment by local authorities. It is possible some complications could arise if a person is required to contribute financially to their care but their access to work, benefits or financial services are impacted by their immigration status.

Key further resources to inform you about this issue include:

- [GOV.UK advice on the EU Settlement Scheme](#)
- [GOV.UK get help applying to the EU Settlement Scheme](#) - find who can help the people you support in your local areas.
- [Resources and webinars from the ADASS website.](#)
- [Care Provider Alliance - EU Settlement Scheme and people who use service](#)
- [Supporting European Economic Area \(EEA\) nationals with care needs](#) (NRPF Factsheet)
- [Slides: Settled/Pre-Settled Status](#)

If you are aware of or have been included in any work being undertaken by a Local Authority in your area to identify and assist people using social care services to apply to the EUSS we would be interested to hear about this (policy@ukhca.co.uk).