

Brexit Guide

Supporting EU and EEA Nationals Working in NHS Greater Glasgow and Clyde

The outcome of the referendum on the United Kingdom's membership of the European Union is about to change the status of all non-UK EU/EEA nationals living in the UK. This has caused significant concern for a considerable number of NHS Scotland staff who are directly or indirectly affected by these changes.

NHSGGC is a forward facing, inclusive organisation, attracting international expertise and skills from around the globe. We greatly value the contribution of all our staff and recognise that many have a number of professional and personal concerns and questions following the United Kingdom's decision to leave the European Union (EU).

We are wholly committed to ensuring our EU staff and their families have access to up-to-date information, support and advice during this period of uncertainty.

Further to UK Parliament discussions over recent weeks and days this has only raised more concern and disruption for individuals and we need to ensure that we support staff and managers during this period as best as possible, recognising that we do not have all the answers at this time.

For Staff

As the UK moves towards leaving the EU, NHSGGC are committed to supporting all staff affected by Brexit. We are therefore providing this guidance to also help EU/EEA staff and those affected by the Brexit vote.

In the first place, you should look to your manager to provide appropriate support, empathy and understanding. Regular conversations with your manager are an opportunity to have honest and open conversations about the impact Brexit is having on you and your family. Staff members affected by Brexit can use this time to raise any issues you think your manager should be aware of and, if appropriate, look for ways to address these issues in the context of the workplace.

UK and EEA staff may require support to complete the documents or processes around the EU Exit settlement scheme, citizenship or immigration. In line with the general approach set out in the national Supporting the Work Life Balance PIN policy, your manager has been encouraged to take a flexible and facilitative approach in responding to reasonable requests for either annual leave or flexible working to deal with the bureaucratic elements of Brexit.

For Managers

As a manager, you may be working with a colleague who has been affected by the EU Referendum outcome, for example:

- a non-UK EU/EEA country citizen
- a dual citizen
- an Irish, Maltese or Cypriot citizen who has a different status to other EU citizens in the UK
- a UK citizen who has close family members holding EU/EEA citizenship
- a non-UK, non-EEA citizen who is the family member of an EU/EEA citizen

It is recognised that Brexit may present different challenges or concerns for your colleagues and staff and this Guide has been prepared for Managers to help support individuals and address issues as they arise.

Managers should provide appropriate support using empathy and understanding. Regular conversations between managers and staff are an opportunity to have honest and open conversations about the impact Brexit is having on them. Staff members affected by Brexit can use this time to raise any issues that they think you should be aware of and, if appropriate, address in the context of the workplace.

Processes around the EU exit settlement scheme, citizenship or immigration may be stressful and onerous for colleagues and their partners and dependants. In line with the general approach set out in the national 'Supporting the Work Life Balance PIN policy', managers are encouraged to take a flexible and facilitative approach in responding positively to reasonable requests from EU/EEA nationals for either annual leave or flexible working to deal with the bureaucratic elements of Brexit.

Right to Live and Work In The UK - Key Terms

EU/EEA national colleagues obtain their right to reside/work in the UK from EU law. The UK's withdrawal from the European Union raises concerns for EU/EEA nationals because EU law will no longer apply to the UK. Many EU/EEA national colleagues are taking a number of steps to secure their status in the UK.

Below is an explanation of some of the key terms EU/EEA nationals may use when discussing their status:

Permanent residency

EU/EEA nationals qualify for permanent residence after five years of living in the UK - subject to meeting certain conditions. Permanent residence gives them the right to live permanently in the UK, but can be lost if they are absent from the country for over two years.

EU Exit Settlement Scheme or 'Settled Status'

During withdrawal negotiations, the UK and EU27 agreed a joint technical note on citizens' rights at negotiator level, reaching consensus on a number of areas. The UK plans to introduce a new settlement scheme. EU citizens and their family members wanting to remain in the UK will have to apply to get their status regularised.

Further details are outlined below.

Naturalisation

After obtaining permanent residency, applicants can apply to naturalise as British citizens. This requires applicants to sit the Life in the UK Test and pass a language test, as well as collecting some documentation.

Making a residency or citizenship application can be long and time-consuming, with individuals needing to take time off to sit a test, travel to other cities (or countries) to collect documents, or attend legal appointments. There are financial implications to consider when making an application which can cause worries to members of staff and their families. For example a naturalisation application costs in excess of £1000.

Settled Status and Documentation

EU citizens currently living in the UK will have to apply to the EU Settlement Scheme by 30 June 2021 if they want to keep living in the UK after this date.

To be eligible to apply to the Settlement Scheme, EU citizens will need to show they are resident in the UK by December 2020.

You will also have to apply to the EU Settlement Scheme if you're a citizen of:

- Norway
- Iceland
- Lichtenstein
- Switzerland

There are separate arrangements for Irish citizens, who [will continue to benefit from the provisions of the Common Travel Area](#).

This scheme will open fully by 30 March 2019 and is run by the UK Government. The proposed fee for settled status will be removed and applications will be free.

[Visit the GOV.UK website](#) for more information on the EU Settlement Scheme, including:

- how to apply
- who should apply
- when to apply
- what status you will receive
- your rights
- EU citizens with permanent residence or indefinite leave to remain
- EU citizens under 21

Evidence of Employment and Earnings

EU citizens living in the UK and their family members will need to apply under the settlement scheme to obtain their new UK immigration status.

Those applying under the scheme will only need to complete three key steps. They will need to:

1. prove their identity
2. show that that they live in the UK, and
3. declare that they have no serious criminal convictions.

If you cannot provide the above you can request a letter detailing the further information required for your applications. This can include duplicate P60s and duplicate monthly pay information. If this level of detail is required, staff must stipulate which five year continuous period they are relying on to demonstrate evidence of UK residency. Staff should allow at least 28 working days turn around for such requests and factor this into their residency/citizenship application process.

Requests should be made to nhsqgc.brexit@ggc.scot.nhs.uk

In the event of No Deal Brexit

The UK Government [published a policy paper](#) setting out how the rights of EU citizens would be protected if no deal is reached with the EU. This only applies to EU citizens who are living in the UK by 29 March 2019.

If there's a 'no deal' situation, EU citizens living in the UK will have to apply to the EU Settlement Scheme by December 2020 (instead of the June 2021 deadline there would be if there was a deal).

To be eligible to apply to the Settlement Scheme, EU citizens will need to show they are resident in the UK by December 2020.

You will also have to apply to the EU Settlement Scheme if you're a citizen of:

- Norway
- Iceland
- Lichtenstein
- Switzerland

Contact

We will have procedures in place in time to provide staff with the documentation they need to support any permanent residency or citizenship applications.

In addition, if you have any general queries, you can email us at: NHSGGC.Brexit@ggc.scot.nhs.uk or alternatively call us on 0141 278 2700 - Option 2.

You can find a series of links to wider websites, frequently asked questions and support through our Brexit Page on HR Connect at HR Connect Site page - <https://www.nhsqgc.org.uk/working-with-us/hr-connect/brexit-information-for-managers-staff/>

See below for a summary of the FAQs.

1. How will the outcome of the EU referendum affect our current staff from the EU?

When the UK leaves the EU on 29 March 2019, the UK and the EU negotiating parties have agreed that EU citizens who arrive in the UK before the end of the implementation period on 31 December 2020 will be able to continue to live and work here as they can now. Free movement will no longer apply after 30 December 2020 and EU citizens will be required to apply for either settled status or pre-settled status via the Home Office EU settlement scheme. Details of the EU settlement scheme was made available on 21 June 2018.

Citizens of the Republic of Ireland will be unaffected and permitted to remain in the UK due to existing arrangements between the UK and the Republic of Ireland outside the EU freedom of movement.

The government has previously confirmed that workers' rights will be protected by the European Union (Withdrawal) Bill, which will convert existing EU law into UK law. It's not anticipated that many changes will be made to UK employment law, at least not in the short term.

2. Which of my EU staff will be eligible for settled status?

There are three eligibility requirements for EU citizens applying for settled status. They must:

- be an EU national or dependant
- have continuously lived in the UK for five years or more by 31 December 2020
- have no serious or persistent criminal background.

EU citizens who arrive in the UK before 31 December 2020 but have not been living continuously in the UK for five years will be able to apply for pre-settled status before switching to settled status once they have been in the UK for five years. The second application will be free of charge.

3. What is continuous residence?

Continuous residence is where a person has not been outside of the UK for more than six months in total in any 12 month period. There is no restriction on the number of absences a person can make from the UK.

A single period of absence of more than six months but less than 12 months is permitted where this is for an important reason, such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting.

Any period of absence in relation to compulsory military service is also permitted.

4. What action should I advise our EU staff to take now?

The Home Office has published details of its new EU settlement scheme. The scheme will open using a phased approach late in 2018 and will be fully operational by 30 March 2019.

Employees are advised not to apply for indefinite leave to remain (ILR) under the current system. The current system for making ILR applications is complex and lengthy, and it is intended that the EU settlement scheme will be considerably simpler.

Employees therefore do not need to do anything until this system is live in late 2018 and will have until 30 June 2021 to apply for settled status.

5. How will our EU staff apply for settled status and how long will the process take?

The Home Office advises that the application will be quick, easy and user friendly and completed in four steps:

- Confirmation of identity using a passport or residence card. This can be done using an android app or by sending the documents to the Home Office.
- Declaration they have no serious or continuous criminal convictions.
- Payment of the required fee (£65 for adults, £32.50 for a child under 16).
- Evidence of residence in the UK. It is expected this will be done by providing a national insurance number so will be automatic for most people. Some applicants may be asked to provide supplementary evidence.

Supplementary evidence may include: annual bank statement, a signed and dated letter from an employer or a signed and dated letter from an accredited college, TV licence, confirmation of doctor appointments etc.

If an applicant has been living in the UK for five years or more, they will be granted settled status. If they have been living in the UK for less than five years, they will be granted pre-settled status which can be switched to settled status free of charge on accrual of five years. Individuals who already have valid permanent residence or ILR documentation will be able to exchange it for settled status, free of charge.

It is expected that the decision process will take two to three weeks.

6. If an EU member of staff has British citizenship how will the UK leaving the EU affect them?

EU citizens who have been naturalised as British citizens will be unaffected by the UK's exit from the EU and will be permitted to retain their citizenship.

EU citizens who have held a document confirming permanent residence for 12 months or more, are eligible to apply for naturalisation as a British citizen. EU citizens considering naturalisation will need to ensure that the rules of their home country permit dual nationality, and whether any of their family members may be affected by them obtaining British citizenship.

A naturalisation application costs £1282 for adults and £973 for children.

EU citizens who have legitimately obtained ILR will be guaranteed settled status once the new system is in place and therefore an application for naturalisation may be unnecessary.

7. We have a shortage of qualified healthcare professionals and have planned a recruitment trip to an EU country in the next few months, shall we still proceed with our recruitment?

The UK remains a member of the EU until March 2019, and the rights of EU citizens to live and work in the UK are currently unaffected until 30 December 2020. Therefore, existing plans to recruit and employ individuals from within the EU currently remain unchanged.

8. What should we advise an EU member of staff who previously requested a permanent residence document and was unsuccessful?

There is no need for your EU staff members to request a reconsideration now as the government has confirmed that until the UK exits the EU, EU citizens that are resident in the UK will continue to benefit from their existing rights to live and work here. Following the UK's exit from the EU, the individual will need to make a new application under the EU Settlement Scheme.

However, if the application is refused for a seemingly straightforward reason (under the current system, many applications fail due to the applicant's failure to provide the correct documentation) an applicant would be well advised to request a reconsideration now. There will be a simple process for exchanging an ILR document for a settled status document and this will be free of charge.

The technical document submitted by the government to the European Commission as part of the ongoing exit negotiations makes clear that those applying to remain in the UK following Brexit will not have their applications refused on minor technicalities, and caseworkers considering settled status applications will exercise discretion where appropriate. Therefore, it is possible that EU citizens who have had an application for ILR turned down may nevertheless be successful under the EU Settlement Scheme. Unsuccessful applicants will also be given a statutory right to appeal against the decision, in keeping with the existing right under the EU Free Movement Directive.

9. What will happen to an EU national who has already obtained UK residence documents, will these be valid after the UK leaves the EU?

EU citizens who have been naturalised as British citizens will be unaffected by the UK's exit from the EU and will be permitted to retain their citizenship. EU citizens who hold other residence documents, such as a permanent residence document or residence card, will need to apply for settled status under the new system. The government has agreed that the process will be streamlined for such applicants and documents will be converted free of charge.

10. What is the situation for families of our EU staff?

Family members who are living with, or join, EU citizens in the UK by 31 December 2020 will be able to apply for settled status, after they have accrued five years' continuous residence. Close family members (i.e. spouses, civil and unmarried partners, dependent children and grandchildren, and dependant parents and grandparents) will be able to join EU citizens following the UK's exit from the EU, where the relationship existed on 31 December 2020. Children born to or adopted by an EU citizen after being granted settled status, will automatically become a British citizen if they're born in the UK. You will not need to apply for settled status on their behalf.

Family members who become related to an EU citizen after the withdrawal date (other than children born or legally adopted after that date), will be subject to the requirements of UK law i.e. their spouse or civil partner must meet a minimum income threshold, currently £18,600.