

To Whom It May Concern

We are writing this letter to highlight that those living in the UK with pre-settled status under the EU Settlement Scheme can have their status automatically extended by two years beyond its initial expiry. That extension will take place approximately 1-2 months ahead of the expiry date. Employers must be aware of this in order to balance their obligations to conduct immigration checks with their duty to avoid discrimination.

In December 2022, the [High Court found](#) that a person's rights associated with their having pre-settled status under the EU Settlement Scheme do not expire simply because that person did not make a further application to the EU Settlement Scheme by the point of their status expiry date. In effect, this means that pre-settled status does not expire. For that reason, the government issued a [press release](#) on 17th July 2023 which confirmed that:

“ from September 2023 people with pre-settled status under the EU Settlement Scheme (EUSS) will automatically have their status extended by 2 years before it expires if they have not obtained settled status.”

That change is reflected in a [Statement of Changes to the Immigration Rules](#) from July 2023 which stipulated that a person's leave may be extended beyond its expiry without any application being made. This was also confirmed by the then-Parliamentary Under Secretary of State for Migration and Borders, Lord Murray of Blidworth, in a [letter to the Home Affairs Select Committee](#) on 19th July 2023.

The effect of this change is that pre-settled status is not subject to a time limitation, and will be automatically extended as long as the holder continues to reside in the UK (with few exceptions), or upgraded to settled status if the holder is found to be eligible for that upgrade. the3million has been told by the Home Office that this automatic extension of pre-settled status is carried out in any given individual case 1-2 months prior to the expiry date shown on their status through the View & Prove system.

It is important that employers are aware of this, when faced with a View & Prove system that continues to show a pending expiry on an individual's pre-settled status ahead of the automatic extension being applied. This is also set out clearly in the gov.uk guidance on [Applying to the EU Settlement Scheme](#).

Employers are likewise reminded of their obligations regarding non-discrimination as set out in the [Code of Practice for employers: avoiding unlawful discrimination while preventing illegal working](#), published 11th February 2022, which states:

“Once a person who has time-limited permission to stay in the UK has established their initial and ongoing entitlement to work, they should not be treated less favourably during their employment, including as to the terms of their employment, opportunities for training, promotion or transfer, benefits, facilities or services, or by dismissing the worker or subjecting them to some other detriment, other than further right to work checks as prescribed in the guidance and [code of practice on preventing illegal working: civil penalty scheme for employers](#), available on the [illegal working penalties: codes of practice for employers collection page](#).”

About the3million

the3million was formed after the 2016 EU referendum to protect the rights of EU citizens who have made the UK their home. Our work includes monitoring the implementation of the Withdrawal Agreement, and informing people of their rights. For more information see www.the3million.org.uk.