

What are the rights of EU* citizens and family members who have not yet been granted status under the EU Settlement Scheme?

This document presents rights of EU citizens and their family members without EUSS status in three tables, as explained below. For completeness, we have also included two tables on EU and non-EU citizens who *do* have status, as there can still be issues with travelling for some of these citizens.

Throughout this document, we refer to newly published guidance, "[EEA nationals at the border post grace period](#)" as 'border guidance' throughout the tables.

- 1. EU CITIZENS (whose continuous residence commenced by 31 December 2020)**
- 2. FAMILY MEMBERS (NON-EU CITIZENS, whose continuous residence commenced by 31 December 2020)**

Citizens who were resident in the UK by 31 December 2020, and who have not broken their continuity of residence since then. If these EU citizens or their non-EU family members subsequently broke their continuity of residence (*i.e. left the country for more than 6 months, more than 12 months for an important reason, longer in some Covid-19 situations, or for more than 5 years if they already had a right of permanent residence*), then they move to the category of "Joining family members" (an EU citizen resident by 31 December 2020 needs to be in a qualifying relationship to become a joining family member) .

- 3. JOINING FAMILY MEMBERS (EU or NON-EU CITIZENS, whose continuous residence did not commence by 31 December 2020)**

Family members who were not living in the UK by 31 December 2020, or who were but have since broken their continuity of residence. This group will be made up of both EU and non-EU citizens, and non-EU citizens can be [visa or non-visa nationals](#).

They will be someone who:

- is not able to demonstrate continuous residence that started before 1 January 2021; but
- is a family member of an EU citizen who:
 - has EU Settlement Scheme status, is awaiting a decision on an EUSS application, or is exempted from applying (e.g. Irish, relevant Northern Irish, or Lounes dual citizens); and
 - has been continuously resident in the UK since **before** 1 January 2021.

- 4. EU citizens with pre-settled or settled status**
- 5. Non-EU citizens with pre-settled or settled status**

CAVEATS:

- These tables will not address situations where there are suitability, criminality or exclusions issues in play, as that would obviously alter what could happen at the UK border.
- We also are not addressing complex situations such as refusals where an appeal / administrative review was not made before the deadline. Or where a non-EU applicant is relying on a historical acquisition of EU permanent residence but is no longer connected to the EU family member.

* When we use EU citizens in this document, we use it as shorthand to include all EEA and Swiss citizens.

1. EU citizens - resident in UK by 31 Dec 2020

EUSS application?	Can leave and re-enter UK	Can apply to the EU Settlement Scheme?	Work, rent, study, access secondary NHS healthcare
<p>None</p> <p>See pages 13 and 59 of border guidance.</p>	<p>They should not travel as they will face problems re-entering the UK.</p> <p>If they can prove residence by 31 December 2020, they should be granted either immigration bail, or a period of Leave outside of the Rules (LOTR) (usually for 28 days).</p> <p>Likely to be refused entry and removed if there is no evidence of residence by 31 December 2020 unless there are “compelling circumstances”.</p>	<p>Yes - they should put in a late application. If currently outside the UK, they can apply directly to the EUSS if they have a valid passport or national ID card with biometric chip, otherwise they will need to try to return to the UK with evidence of their residence by 31 December 2020.</p> <p>If they are granted immigration bail this should be extended once an application is made until they get a CoA.</p> <p>If LOTR granted, they are lawfully resident for the duration of this and for the duration of the EUSS application if made before the LOTR expires. If LOTR expires, they will be unlawful until they receive a CoA.</p> <p>If immigration bail/LOTR is not applicable, they have no lawful status until they receive a CoA.</p>	<p>No</p>
<p>Pending in-time application</p> <p>See pages 13 and 41 of border guidance.</p>	<p>Those who made in-time applications (and have digital CoA) should not need to demonstrate evidence of residence by 31 December 2020. If they are still waiting for a CoA, they would be advised to carry with them the email confirming their in-time application, ideally alongside evidence that they were resident in the UK before the end of the transition period.</p> <p>Likely to be refused entry and removed if there is evidence that they were not resident by 31 December 2020, unless there are “compelling circumstances”.</p>	<p>n/a - has already applied to EUSS</p>	<p>In-time applicants still waiting for CoA can also use email confirming their application in order to access rights.</p> <p>Can work, rent, study, access NHS healthcare.</p> <p>Will require involvement of Employer Checking Service / Landlord Checking Service unless they have a <i>digital</i> CoA.</p>
<p>Pending late application</p> <p>See pages 13 and 56 of border guidance.</p>	<p>Citizens who made late applications must have a CoA in order to travel, and should also carry evidence that they were resident in the UK by the end of the transition period, 31 December 2020. They should be granted Leave outside of the Rules (LOTR) (usually for 3 months).</p> <p>Likely to be refused entry and removed if there is no evidence of residence by 31 December 2020 unless there are “compelling circumstances”.</p>	<p>n/a - has already applied to EUSS</p>	<p>Late applicants must have a CoA to access any rights.</p> <p>Can work, rent, study, access NHS healthcare.</p> <p>Will require involvement of Employer Checking Service / Landlord Checking Service.</p>

2. Non-EU family members - resident in UK by 31 Dec 2020

EUSS application?	Can leave and re-enter UK	Can apply to the EU Settlement Scheme?	Work, rent, study, access secondary NHS healthcare
<p>None</p> <p>See pages 14 and 59 of border guidance.</p>	<p>They should not travel as they will face problems re-entering the UK.</p> <p>If they can prove residence by 31 December 2020 (including in a valid UK-issued EEA BRC) and the family relationship is accepted, they should be granted either immigration bail, or a period of Leave outside of the rules (LOTR) (usually for 28 days).</p> <p>At a Juxtaposed Port someone with a valid UK-issued EEA BRC must be granted a period of Leave outside of the rules (LOTR).</p> <p>Likely to be refused entry and removed if they do not have a valid UK-issued EEA BRC, there is no evidence of residence by 31 December 2020 and / or the family relationship is challenged unless there are “compelling circumstances”.</p> <p>NOTE: Irrespective of the position at the UK border, visa nationals are unlikely to be able to board carriers to the UK if they do not have a valid EEA BRC / FP or other valid residence document.</p>	<p>Yes - they should put in a late application. If currently outside the UK, they can apply directly to the EUSS if they have an in-date UK-issued EEA BRC, otherwise will need to apply for EUSS FP first.</p> <p>If they were granted bail at the border, this is extended until they get a CoA.</p> <p>If LOTR granted they are lawfully resident for duration and for the duration of the application if made before the LOTR expires. If LOTR expires will be unlawful until they receive a CoA.</p> <p>If bail/LOTR is not applicable, they have no lawful status until they receive a CoA.</p>	<p>No</p>
<p>Pending in-time application</p> <p>See pages 14 and 43 of border guidance.</p>	<p>Those who made in-time applications and have a valid UK-issued EEA BRC/FP can enter the UK under saved provisions. (If they are still waiting for a CoA, they would be advised to carry with them the email confirming their in-time application).</p> <p>Those who do not have a valid UK-issued EEA BRC/FP, but can demonstrate both residence by 31 December 2020 and family relationship, should be granted a period of Leave outside the rules (LOTR).</p> <p>Likely to be refused entry and removed if they do not have a valid UK-issued EEA BRC/FP, there is no evidence of residence by 31 December 2020 and / or the family relationship is challenged unless there are “compelling circumstances”.</p> <p>NOTE: Irrespective of the position at the UK border, visa nationals are unlikely to be able to board carriers to the UK if they do not have a valid EEA BRC / FP or other valid residence document.</p>	<p>n/a - has already applied to EUSS</p>	<p>In-time applicants still waiting for CoA can also use email confirming their application in order to access rights.</p> <p>Can work, rent, study, access NHS healthcare.</p> <p>Will require involvement of Employer Checking Service / Landlord Checking Service unless they have a <i>digital</i> CoA.</p>
<p>Pending late application</p> <p>See pages 14 and 56 of border guidance.</p>	<p>If late applicants with a CoA can demonstrate evidence that they were resident by 31 December 2020, and prove their family relationship, they should be granted a period of Leave outside the rules (LOTR).</p> <p>Likely to be refused entry and removed if there is no evidence of residence by 31 December 2020 and / or the family relationship is challenged unless there are “compelling circumstances”.</p> <p>NOTE: Irrespective of the position at the UK border, visa nationals are unlikely to be able to board carriers to the UK if they do not have a valid EEA BRC / FP or other valid residence document.</p>	<p>n/a - has already applied to EUSS</p>	<p>Late applicants must have a CoA to access any rights.</p> <p>Can work, rent, study, access NHS healthcare.</p> <p>Will require involvement of Employer / Landlord Checking Service.</p>

3. Joining family members - all nationalities, without continuous residence from before 31.12.2020

EUSS application?	Can leave and re-enter UK	Can apply to the EU Settlement Scheme?	Work, rent, study, access secondary NHS healthcare
<p>No EUSS application - and no EUSS Family Permit.</p> <p>See pages 14 and 69 of border guidance.</p>	<p>If they hold an in-date UK-issued EEA BRC, they should be granted a period of Leave outside the rules (LOTR) (usually for 3 months).</p> <p>Likely to be refused entry and removed if they do not have a valid UK-issued EEA BRC, unless there are “compelling circumstances”.</p> <p>Can still visit the UK if they meet the visiting rules i.e., genuinely intend to visit for a period of up to 6 months. As a visitor must leave the UK, they can re-enter as a joining family member once their EUSS status / EUSS Family Permit (as applicable) is granted.</p>	<p>If currently inside the UK Yes, see EUSS guidance p 101, rule change HC617</p> <p>Advisors should be aware that applying to the EUSS as a visitor could have good character implications down the line e.g. when naturalising.</p> <p>If currently outside the UK They can apply directly to the EUSS if:</p> <ul style="list-style-type: none"> • EEA/Swiss with valid passport or national id card with biometric chip • Non-(EEA/Swiss) with in-date UK-issued EEA BRC 	<p>No</p>
<p>No EUSS application - but has EUSS Family Permit.</p> <p>See pages 14 and 38 of border guidance.</p>	<p>They can enter and leave the UK freely for 6 months (until their EUSS Family Permit expires).</p> <p>If the EUSS Family Permit has expired when attempting to enter the UK, they should be granted a period of Leave outside the rules (LOTR).</p> <p>NOTE: Irrespective of the position at the UK border, visa nationals are unlikely to be able to board carriers to the UK if the EUSS Family Permit has expired.</p>	<p>Yes. Under the Withdrawal Agreement must do so within 3 months of arrival in the UK unless there is a good reason to apply late.</p>	<p>Can work, rent, study, access NHS healthcare for the duration of the EUSS Family Permit.</p> <p>If they do not apply before the EUSS Family Permit expires then will need to wait for CoA to access rights.</p>
<p>Pending EUSS application - but no EUSS Family Permit.</p> <p>See pages 14, 38 and 69 of border guidance.</p>	<p>If they hold an in-date or expired UK-issued EEA BRC or EEA Family Permit, they should be granted a period of Leave outside the rules (LOTR) (usually for 3 months).</p> <p>Likely to be refused entry and removed if they do not have an in-date or expired UK-issued EEA BRC or EEA FP, unless there are “compelling circumstances”.</p> <p>NOTE: Irrespective of the position at the UK border, visa nationals are unlikely to be able to board carriers to the UK if they do not have a valid EEA BRC / FP or other valid residence document.</p> <p>Can still visit the UK if they meet the visiting rules i.e., genuinely intend to visit for a period of up to 6 months. As a visitor must leave the UK, they can re-enter as a joining family member once their EUSS status is granted.</p>	<p>n/a - has already applied to EUSS</p>	<p>Needs CoA to access rights.</p> <p>Can work, rent, study, access NHS healthcare.</p>
<p>Pending EUSS application, has EUSS Family Permit.</p> <p>See pages 14/38 of border guidance.</p>	<p>They can enter and leave the UK freely for 6 months (until their Family Permit expires). If they have a CoA, then they can use an expired Family Permit to re-enter.</p> <p>NOTE: Irrespective of the position at the UK border, visa nationals are unlikely to be able to board carriers to the UK if the EUSS Family Permit has expired.</p>	<p>n/a - has already applied to EUSS</p>	<p>Can rely on the EUSS Family Permit until CoA is received to access rights.</p> <p>Can work, rent, study, access NHS healthcare.</p>

4. EU citizens with pre-settled or settled status

EUSS application?	Can leave and re-enter UK	Can apply to the EU Settlement Scheme?	Work, rent, study, access secondary NHS healthcare
n/a - has already been granted EUSS status	They can travel on their valid passports or valid national ID cards. Carriers are not required to ask for evidence of EUSS status however, some may do so in which case they can rely on digital status / share code.	n/a - has already applied to EUSS	Yes

5. Non-EU citizens with pre-settled or settled status

n/a - has already been granted EUSS status	They must travel with a valid passport and a valid Biometric Residence Card issued under the EEA Regs or the EUSS. NOTE: Carriers will not accept digital status as evidence of the right to travel to the UK as they are required to see a valid BRC	n/a - has already applied to EUSS	Yes
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