



Home Office

# EEA nationals at the border post grace period

Version 5.0

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# About this guidance

This guidance sets out the operational processes for dealing with EU, European Economic Area (EEA) and Swiss passengers and their family members who arrive at the UK border after the end of the grace period, which ended at midnight on 30 June 2021. **The guidance therefore comes into effect at 00:01 on 1 July 2021.**

## Contacts

If you have any questions about the guidance and your EU Exit super-user cannot help you or you think that the guidance has factual errors, then email Border Force National Immigration and Customs Enquiries (BF NICE). The inbox is no longer operational for enquiries but will auto-respond with the latest advice on finding support.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **5.0**
- published for Home Office staff on **14 April 2022**

## Changes from last version of this guidance

Amendment of one word under the heading "Use of eGates" with the inclusion of the word "six" to indicate the number of months a passenger can enter for having successfully passed through an eGate.

### Related content

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## Section 55 Duty

Section 55 of the Borders, Citizenship and Immigration Act 2009 places a duty on the Secretary of State to make arrangements for ensuring that immigration, asylum or nationality functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. This duty is a primary consideration, although it does not prevent the consideration of other factors in cases involving children.

Child protection therefore remains a high priority for Border Force and as border control is a key line of defence against exploitation, you must exercise vigilance when dealing with children with whom you come into contact and identify children who may be at risk of harm.

As you have a duty of care when dealing with cases involving children, whether in family groups or unaccompanied, the decision making process you follow must take into account the needs and best interests of the child, and you must take action where it is appropriate and necessary to ensure the child is safe and well.

In addition, where you have child protection concerns about any child's safety or welfare, you must promptly refer to the relevant police contacts, and/or children's services as soon as possible. You must ensure that vulnerable children do not leave the primary control point without the approval of these agencies.

Although the section 55 duty only applies to children in the UK, officers based at juxtaposed locations must adhere to the spirit of the legislation. You must therefore make enquiries when you have reason to suspect that a child may be in need of protection or safeguarding, or presents welfare needs that require attention. Where appropriate, the French, Belgian or Dutch authorities in these locations should be able to provide you with assistance.

The specially trained safeguarding and modern slavery teams across Border Force are also there to support you by providing expert help in safeguarding matters, whilst working in close partnership with local agencies such as the police and social services. For further information you can refer to the [Children travelling to the UK](#) leaflet or the [change for children](#) guidance.

### Removal of an unaccompanied child

As part of our commitment to safeguarding children, and to act in accordance with our statutory duty under section 55, you must never remove an unaccompanied child from the UK without ensuring that safe and adequate reception arrangements have been made for that child. You must discuss any reception arrangements that are made with children's services in the UK or children's services in the country the child is travelling to.

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**Official – sensitive: end of section**

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**Related content**

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# Definitions in this guidance

“2000 Order” means the Immigration (Leave to Enter and Remain) Order 2000

“EEA” means all countries of the EU plus the EEA EFTA countries (Iceland, Liechtenstein and Norway)

“EEA national” means an EU, EEA or Swiss national, other than an Irish national

“EEA Regulations 2016” means the Immigration (European Economic Area) Regulations 2016

“EUSS” means EU Settlement Scheme

“Family member of an EEA national” means a spouse, civil partner, durable partner, child or direct dependent relative in the ascending line

“Grace Period Statutory Instrument” means The Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020

“LOTR” means leave granted outside the Immigration Rules

“Permission to enter” means leave to enter, including that which derives from an entry clearance

“Permission to stay” means leave to remain

“Physical status documentation” means documentary evidence of a passenger’s status, which may include but is not limited to a vignette, permit or residence card

“Saved EEA Regulations” means the EEA Regulations 2016 as saved and amended by the Grace Period Statutory Instrument

“The Agreements” means the EU Withdrawal Agreement, the EEA EFTA Separation Agreement and the Swiss Citizens’ Rights Agreement

“The grace period” is the period between the end of the transition period at 11.00pm GMT on 31 December 2020 and the deadline of the end of 30 June 2021 for applications to the EUSS for those residing in the UK by the end of the transition period.

## **Related content**

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# Ending of the transition period

This page tells Border Force officers about the legal and operational effect of the ending of the transition period.

The UK left the EU on 31 January 2020 and, in accordance with the terms of the Agreements, entered into a transition period which ended at 11.00pm on 31 December 2020.

EEA nationals and their family members, newly arriving to the UK from 11.00pm on 31 December 2020, must obtain permission to enter or permission to stay in accordance with the published [Immigration Rules](#), unless they were also part of the grace period cohort and entered by 30 June 2021.

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# The grace period

The Agreements provided for a grace period in which European Economic Area (EEA) nationals and their family members who are protected by those Agreements and resident in the UK by the end of the transition period are able to apply to the EU Settlement Scheme (EUSS). The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (the 'Grace Period Statutory Instrument') sets the deadline of the end of 30 June 2021 for applications to the EUSS by those who are resident in the UK by 31 December 2020. It also saved (under the "saved EEA Regulations") relevant rights of admission and residence for those who were residing lawfully in the UK under the EEA Regulations but did not have EUSS status when free movement to the UK ended at the end of the transition period. Provided individuals made an application before the deadline, the Grace Period Statutory Instrument saved their rights until the final determination of their application, including any appeal against refusal of status.

This deadline of 30 June 2021 does **not** apply to all individuals who are eligible for the EUSS as a [joining family member](#). Joining family members have a deadline for applications to the EUSS of **either** 30 June 2021 if they arrived in the UK before 1 April 2021, **or** otherwise three months after their date of arrival in the UK.

From 1 July 2021, the saved EEA Regulations can only apply to an individual who was resident in the UK by 31 December 2020. They **do not** apply to a joining family member who arrived in the UK after 31 December 2020, even if that joining family member applied to the EUSS before 30 June 2021.

In almost all cases encountered at the border, the joining family member will be required to hold an EUSS family permit (as opposed to an EEA family permit or a residence card) or have obtained EUSS leave (or another form of leave) via an overseas application or have a pending application for EUSS leave. In [limited circumstances](#), a joining family member who does not meet these criteria may qualify for Temporary Protection. There is no deadline for joining family members to travel to the UK where the family relationship existed before the end of the transition period (or a relevant child is born or adopted thereafter), so you may see joining family members arriving with an EUSS family permit, EUSS leave or a pending application for EUSS leave at any date in the future.

Family members of qualifying British citizens ("Surinder Singh" cases) are subject to different requirements. They will only be covered by the "saved Regulations" where the qualifying British citizen returned to the UK by the end of the transition period. Where the family relationship was formed after 31 January 2020, or the family member is a dependent relative, the family member and the qualifying British citizen were required to return to the UK by the end of the transition period, and the 30 June 2021 deadline for EUSS applications applies. Where the family relationship existed before 31 January 2020 (including a durable partnership that is now a marriage or civil partnership), or a relevant child is born or adopted after that date, the family member and qualifying British citizen are required to return to the UK by 29 March 2022, and the family member will have to apply to the EUSS within three months of their arrival.

Applications to the EUSS may be accepted after the relevant deadline, provided that there are reasonable grounds for missing the deadline. See the section below relating to [Temporary Protection](#).

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# Temporary Protection

EEA nationals and their family members who were resident in the UK by 31 December 2020, but failed to apply to the EUSS by 30 June 2021, are no longer protected by the saved EEA Regulations.

However, equivalent rights to those provided by the saved EEA Regulations are afforded to individuals who have “Temporary Protection” status. These rights include:

- the ability to live, work and study in the UK
- access to public funds
- the right to travel using a valid national identity card if they are an EEA national

Temporary Protection status is **not** a form of leave, but it may be necessary to grant a period of Leave outside the Rules (LOTR) at the border to facilitate the entry of an individual who has Temporary Protection status. Where a grant of leave is required, it should be for 3 months on a Code 1A.

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## Official – sensitive: end of section

An EEA national or their family member who was resident in the UK by 31 December 2020 and has submitted a late application to the EUSS will have Temporary Protection status from the point that their application was validated. An application is validated at the point a Certificate of Application is issued and will at that point be visible on Home Office systems. For further details on processing these individuals at the border, see [Pending late applications](#).

Individuals with a pending late application to a Crown Dependency EUSS must be treated the same as those with a pending late application to the UK EUSS.

[Joining family members](#) may also have Temporary Protection status. There will be different processes for assessing whether a person has Temporary Protection status as a joining family member depending on whether they are in-country or at the border. For further details on assessing these cases at the border, see [Temporary Protection as a joining family member](#).

Temporary Protection will also apply to an individual who has been refused EUSS leave, and lost any saved rights or previous Temporary Protection because they failed to appeal within the deadline, but subsequently has a late appeal admitted by the Tribunal or a late administrative review accepted by the Home Office. This can be verified by checking Home Office systems, or correspondence from the Tribunal which is provided by the individual or their representatives.

## Exceptions for criminality

In cases involving serious criminality, you may consider that it is not appropriate to grant LOTR, even if the individual would otherwise benefit from “Temporary Protection”.

For individuals with a pending late EUSS application, or joining family members, you must still consider their conduct under the public policy and public security test if it occurred on or before 31 December 2020. This includes individuals who have been previously served with a deportation or exclusion decision taken on non-conductive grounds (for example, prior to becoming a family member of an EEA national). The non-conductive test applies to any conduct which occurred from 1 January 2021. Where you consider that the relevant test is met, you may refuse entry under paragraph 9.3.1 of the Immigration Rules, but must set out clearly in the decision that you have considered the public policy test in respect of any conduct which occurred before the end of the transition period.

## Saved rights or Temporary Protection

The tables below provide an overview of circumstances in which an individual will have saved rights, Temporary Protection or neither. However, this is an indicative guide only and all cases must be considered in line with the more detailed instructions in this guidance.

### For EEA nationals:

#### Individual claims they were resident in the UK by 31 December 2020

Pending in time application	Pending late application	No application pending
No reason to doubt resident by 31 Dec 20 <b>Action: saved rights (admit)</b>	Evidence resident by 31 Dec 20 <b>Action: Temporary Protection (LOTR)</b>	Evidence resident by 31 Dec 20 <b>Action: bail or LOTR</b>
Evidence not resident by 31 Dec 20: <b>Action: refuse and remove unless compelling circumstances apply</b>	No evidence resident by 31 Dec 20 <b>Action: refuse and remove unless compelling circumstances apply</b>	No evidence resident by 31 Dec 20 <b>Action: refuse and remove unless compelling circumstances apply</b>

For non-EEA nationals:

Individual claims they were resident in the UK by 31 December 2020

Pending in time application	Pending late application	No application pending
Holds in date EEA BRC <b>Action: saved rights (admit)</b>	Evidence resident by 31 Dec 20 and family relationship accepted <b>Action: Temporary Protection (LOTR)</b>	Holds in date EEA BRC, or evidence resident by 31 Dec 20 and family relationship accepted <b>Action: bail or LOTR</b>
Evidence resident by 31 Dec 20 and family relationship accepted <b>Action: Temporary Protection (LOTR)</b>	Residence or family relationship not accepted <b>Action: refuse and remove unless compelling circumstances apply</b>	Residence or family relationship not accepted <b>Action: refuse and remove unless compelling circumstances apply</b>
No in date EEA BRC and residence or family relationship not accepted <b>Action: refuse and remove unless compelling circumstances apply</b>	-	-

For all nationalities:

Joining family member

Pending application	No application pending
Holds in date or expired EUSS FP, EEA FP or EEA BRC <b>Action: Temporary Protection (LOTR unless EUSS FP still in date)</b>	Holds in date or expired EUSS FP, or in date EEA BRC <b>Action: Temporary Protection (LOTR unless EUSS FP still in date)</b>
No document held <b>Action: refuse and remove unless compelling circumstances apply</b>	No such document held <b>Action: refuse and remove, unless compelling circumstances apply</b>

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## Irish citizens

Under section 3ZA of the Immigration Act 1971 (in force from the end of the transition period), Irish citizens **do not** require leave to enter or remain in the UK and must be allowed to proceed – they do not require a grant of admission.

The **only** circumstances in which an Irish national can be refused admission to or permission to enter the UK is where they are subject to a deportation order, exclusion order or international travel ban.

Irish citizens enjoy a right of residence in the UK that is not reliant on the Withdrawal Agreement, and so **do not** need to apply for status under the EU Settlement Scheme, but they can make an application if they were resident in the UK by 31 December 2020 (or they are the close family member of an Irish or other EEA citizen who was) and they wish to do so. They must still meet the relevant requirements were they to have applied in order for a family member's application to be successful.

Where the Irish citizen was resident in the UK by 31 December 2020, their family members (who are not Irish citizens or British citizens and who do not have indefinite leave to enter or remain in the UK) who were themselves resident in the UK by 31 December 2020 will, however, need to have applied to the EU Settlement Scheme by 30 June 2021 to remain in the UK after that date, or they will need to secure immigration status under the wider UK immigration system. Where someone has reasonable grounds for missing the deadline for the EU Settlement Scheme, they will be given a further opportunity to apply. The Home Office has published non-exhaustive guidance on reasonable grounds for making a late application, which underpins a flexible and pragmatic approach to late applications. Family members can apply to the scheme whether or not the Irish citizen does so.

For more information please see [EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members](#).

Where the Irish citizen was resident in the UK by 31 December 2020, a close family member who was not resident in the UK by 31 December 2020, may apply to the EU Settlement Scheme from outside the UK if they have the required proof of entitlement to apply from overseas. Otherwise, they may apply for, and enter the UK using an EU Settlement Scheme family permit as the joining family member of a relevant sponsor and then apply to the EU Settlement Scheme from within the UK. For more information please see [EU Settlement Scheme: Family permits](#).

Irish citizens also **do not** need a frontier worker permit, but they may apply for one if they wish. They may also seek admission under the Frontier Worker Regulations 2020, although they are not required to do so in order to work in the UK. A family member of an Irish frontier worker may apply for an EUSS family permit, or directly to the EUSS if they reside in the UK.

Irish citizens may also enter the UK for medical treatment with an S2 authorisation, although they are not required to obtain permission to enter. Their accompanying person may still apply as an [S2 Healthcare Visitor](#).

If you cancel an Irish citizen's existing permission under these routes, refuse entry or refuse admission as a frontier worker or under the Grace Period Statutory Instrument, you must still let them proceed on the basis of their rights under section 3ZA unless they are subject to a deportation order, exclusion decision or international travel ban, in which case they become someone who requires permission to enter and you must consider them accordingly.

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# Arrivals via the common travel area (CTA)

The CTA is an administrative arrangement between the UK, Ireland and the Crown Dependencies (Isle of Man, Guernsey and Jersey) which is implemented in UK domestic law in statute.

CTA arrangements remain unaffected by the UK's departure from the EU. It remains the case that there must be **no routine immigration controls** on arrivals from within the CTA, with none whatsoever on the land border.

**Where an individual falls into one of the following categories, they will enter the UK on the basis of that permission or right, and will be excluded from the statutory permission known as “deemed leave” when entering via Ireland:**

- those who have a right of abode in the UK
- Irish citizens
- those who have permission to enter or stay in force which was given to them before arrival
- those who have entry clearance which confers permission or those who have continuing permission under the Immigration (Leave to Enter and Remain) Order 2000 including those who hold an EUSS Family Permit
- those who are exempt from control (for example diplomats)
- those who have been granted pre-settled status or settled status under the EUSS
- those who have a saved right of admission under the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020, such as they have a pending in time application to the EUSS or an appeal against the refusal of such an application has not been finally determined
- those who hold a frontier worker permit under the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020

**In all other cases, the passenger will be entitled to “deemed leave” when entering via Ireland, unless they fall under one of the exceptions in section 9(4) of the Immigration Act 1971 or the Immigration (Control of Entry through Republic of Ireland) Order 1972 (“the 1972 Order”), in which case they require permission to enter.**

The guidance in this document must still be followed on CTA routes where examination is required in order to ensure a consistency of approach to examining EEA nationals and their family members, and establishing their status. For those entering via Ireland under the 1972 Order, where granting permission to enter under the Immigration Rules as a visitor or S2 Healthcare Visitor is referred to in this guidance, you must instead consider whether the individual is entitled to deemed leave on the basis of the 1972 Order.

A person travelling to the UK from the Crown Dependencies who has been granted permission to enter in that jurisdiction is not normally required to seek further permission to enter the UK. Any permission granted by a Crown Dependency that does not lapse when the individual leaves the CTA (for example status under the equivalent of the UK's points-based system) is also recognised where the individual travels to the UK from outside that Crown Dependency. In both scenarios, you must consider whether the individual already has status granted by a Crown Dependency and therefore whether they require permission to enter the UK. The same principles of examination and the process of establishing status as set out in the guidance below still apply, albeit many EEA citizens with status issued by a Crown Dependency will still have physical evidence of that status whilst the Crown Dependencies move to digital status.

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For further details, see the Common Travel Area guidance.

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**Related external links**

[Withdrawal Agreement](#)

# Use of eGates

European Economic Area (EEA) nationals will remain eligible to use eGates, provided that they are aged 12 years or over (and accompanied by a responsible adult if aged under 18) and are travelling using a passport with a biometric chip.

Amendments to the Immigration (Leave to Enter and Remain) Order 2000 (the “2000 Order”) mean that EEA nationals who do not hold an existing permission or right to enter remain entitled to use eGates and will automatically obtain permission to enter for six months on successfully passing through an eGate. This permission will be subject to standard visitor conditions unless the passenger qualifies as an [S2 Healthcare Visitor](#), in which case, those conditions apply.

Permission to enter that is granted on passing through an eGate is to be treated as leave that was in force on arrival, which means that any passenger who obtained such leave may be examined under paragraph 2A of Schedule 2 to the Immigration Act 1971, and such leave may be cancelled if paragraph 2A(2) or (3) apply.

Other EEA passengers who already hold a permission or right to enter (for example EUSS, frontier worker permit holders) are also entitled to use eGates.

[Certain EEA passengers](#), who need to be granted permission to enter in a category that is not as a standard visitor or S2 Healthcare Visitor, **cannot** use eGates and must seek permission to enter from an officer.

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# Exempt from immigration control

European Economic Area (EEA) nationals may be exempt from immigration control.

Those who are exempt will include:

- Sovereigns or Heads of State and members of their household
- persons included in an official state visit
- members of diplomatic missions based in the UK, and members of their household
- consular officers and employees based in the UK, and members of their household
- serving members of governments travelling on official government business, and members of their household
- officials from certain international organisations, and members of their household
- members of UK, Commonwealth or NATO armed forces

Individuals who are exempt from control may use eGates. Where an exempt individual uses a desk, they must not be subject to examination or further checks beyond determining their identity and that they are exempt from immigration control.

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# Travel documentation

After the transition period, European Economic Area (EEA) passengers are **no longer entitled** to demonstrate their nationality “by any other means”. Until 1 October 2021, EEA passengers were entitled to use either a valid passport or a valid national identity card to enter the UK.

Since 1 October 2021, a valid national identity card will only be accepted for travel from EEA nationals who:

- hold settled or pre-settled status under the EUSS
- hold an EUSS family permit
- have a pending valid application to the EUSS
- hold a frontier worker permit
- are a Swiss national and hold entry clearance as a Service Provider from Switzerland
- are an S2 healthcare visitor

All other EEA nationals must arrive with a valid passport to enter the UK from 1 October 2021.

Irish passport cards, and Gibraltar identity cards held by British citizens, continue to be accepted.

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# Overview of cohorts of EEA nationals

For full details on these cohorts, see [cohorts of European Economic Area \(EEA\) nationals and their family members](#).

EEA nationals **legitimately arriving** at the border will be part of one of the following cohorts:

- those who have been granted status under the [EU Settlement Scheme \(EUSS\)](#) - this will be either settled status (indefinite leave to enter or remain in the UK) or pre-settled status (5 years' limited leave to enter or remain in the UK)
- those who have a [pending application](#) to the EUSS and therefore continue to have saved free movement rights or have Temporary Protection
- those who applied to the EUSS, had their application refused but are either still within the deadline to appeal, or have appealed and their appeal has not yet been finally determined, and therefore continue to have saved free movement rights or have Temporary Protection
- those who have been granted an [EUSS family permit](#)
- those who have been issued with a [frontier worker](#) permit
- [Irish citizens](#) who are a frontier worker (and are therefore not required to hold a frontier worker permit)
- those who have been granted entry clearance as a [Service Provider from Switzerland](#)
- those who have been granted entry clearance or permission to stay as an [S2 Healthcare Visitor](#)
- those who are seeking permission to enter as an [S2 Healthcare Visitor](#)
- [Irish citizens](#) who are seeking to enter on the basis of their section 3ZA rights, and so do not require permission to enter
- those who are [exempt from immigration control](#)
- those who have been granted permission to enter or stay under the [points-based system](#) or another part of the immigration rules, where the grant was for more than 6 months
- those who are seeking permission to enter as a [visitor](#) (including for short term study)
- those who hold entry clearance as a [marriage visitor](#)
- those who are seeking permission to enter in an [alternative category](#) (for example Permitted Paid Engagements (PPE) visitor, creative worker visa concession)

Additionally, you may encounter EEA nationals who have [missed the deadline](#) to apply to the EUSS, but claim that they would be eligible if they applied.

It is also possible that an EEA national will not be arriving legitimately, for example where they are subject to a deportation order or exclusion order.

**Where you are processing an EEA passenger, you must be aware that those who hold existing status may hold either physical or digital status.**

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# Overview of cohorts of non-EEA nationals

For full details on these cohorts, see [cohorts of European Economic Area \(EEA\) nationals and their family members](#).

Now the transition period has ended, non-EEA nationals who are themselves protected by the Agreements as the family member of an EEA national and who are legitimately arriving at the border may be part of one of the following cohorts:

- those who have been granted status under the [EU Settlement Scheme](#) (EUSS) - this will be either settled status (indefinite leave to enter or remain in the UK) or pre-settled status (5 years' limited leave to enter or remain in the UK)
- those who have been granted an [EUSS family permit](#)
- those who hold a document issued under the EEA Regulations 2016 (such as a residence card or an EEA family permit) **and** who have a [pending application](#) to the EUSS, and therefore continue to have saved free movement rights or have Temporary Protection
- those who hold an EUSS family permit or document issued under the EEA Regulations 2016 **and** who have had their application to the EUSS refused, but are either still within the deadline to appeal, or have appealed and their appeal has not yet been finally determined, and therefore continue to have saved free movement rights or have Temporary Protection
- those who have been granted entry clearance as a [Service Provider from Switzerland](#)
- those who have been granted entry clearance or permission to stay as an [S2 Healthcare Visitor](#)
- for non-visa nationals, those who are seeking permission to enter as an [S2 Healthcare Visitor](#)
- those who have been granted permission to enter or stay under the [points-based system](#) or another part of the Immigration Rules
- for non-visa nationals, those who are seeking permission to enter as a [visitor](#) (including for short term study)
- those who hold entry clearance as a [visitor](#)
- for non-visa nationals, those who are [seeking permission to enter in an alternative category](#) (for example Permitted Paid Engagements (PPE) visitor, Tier 5 concession)

You may also encounter non-EEA nationals who:

- have a [pending EUSS application](#), but do not hold a document issued under the EEA Regulations 2016
- have [missed the deadline](#) to apply to the EUSS, or have failed to obtain entry clearance as a joining family member
- claim to be a joining family member and hold an in date or expired document issued under the EEA Regulations 2016



**These lists are not exhaustive.**

A non-EEA national will hold physical status documentation (either in the form of a vignette (including a family permit), residence card or Biometric Residence Permit) that reflects their status, unless:

- they hold a residence card issued under the EEA Regulations 2016 which has not physically been updated to reflect that they now hold leave under the EUSS
- they are a non-visa national seeking permission to enter under the Immigration Rules for a purpose which does not require entry clearance

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# Granting permission to enter to EEA nationals

Where a European Economic Area (EEA) national needs to be granted permission to enter, you may grant permission for any period up to 6 months, similar to other non-visa nationalities.

An Irish citizen **does not** require a grant of permission to enter, unless they are subject to a deportation order, exclusion order or international travel ban.

In the majority of cases, EEA nationals requiring permission to enter at the border will be standard visitors, although some may be seeking entry for other purposes, for example, S2 Healthcare Visitors, Creative Worker visa concession or Permitted Paid Engagements (PPE).

You should not routinely test the credibility of EEA nationals once you have established the basis on which they are seeking permission to enter, although you may subject them to further examination where you have specific reason to believe that they may be refused. This includes where you have reason to suspect that an EEA national seeking permission to enter as a visitor does not meet the requirements of the visitor rules or where an EEA national is seeking entry for a purpose which requires prior entry clearance and they do not have this.

Where you process an EEA national [standard visitor](#) or [S2 Healthcare Visitor](#) at the primary control point (PCP), you must grant permission to enter orally and direct the passenger to the signage beyond the PCP that displays the standard conditions that apply to a visitor.

Grants of permission to enter at the border under the Creative Worker visa concession or PPE **must** be [endorsed](#) in the passport. **Individuals seeking entry under the Creative Worker visa concession or PPE must not be directed to use an eGate.**

After the grace period, frontier workers have a right of admission on production of valid identification and a valid frontier worker permit. Frontier workers **do not require a grant of permission to enter and their travel document must not be stamped.** They are entitled to travel using either a valid passport or valid national identity card.

## Related content

[Contents](#)

# Refusing or cancelling permission for EEA nationals

The grounds for refusal or cancellation of permission that apply to a European Economic Area (EEA) national will depend on which cohort they are in.

**All** EEA nationals (with the exception of Irish citizens) may be refused permission, or have their permission cancelled, on the basis that their conduct committed after the end of the transition period means that their presence in the UK is not conducive to the public good.

Where an EEA national does not require or hold permission to enter or stay, because they are a frontier worker, or covered by the saved EEA Regulations, they may be refused admission or have any documentation that they have been issued (for example a frontier worker permit) revoked on non-conducive grounds in respect of conduct committed after the end of the transition period. .

Part 9 (Grounds for refusal) of the Immigration Rules **does not** apply to EU Settlement Scheme (EUSS) status holders, EUSS family permit holders, frontier workers, Service Providers from Switzerland, S2 Healthcare Visitors or individuals protected by the saved EEA Regulations. Where you are considering refusing or cancelling permission under those routes, you must follow the links to additional guidance contained in the relevant sections of this guidance. Part 9 **does** apply to EEA nationals who hold an existing permission under any other route, or who are seeking entry to the UK without prior entry clearance in any capacity.

Whilst Part 9 applies to an individual who has Temporary Protection status, you must only apply it in accordance with the guidance on [exceptions for criminality](#).

See the non-conducive guidance. .

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## Signalling a refusal in an EEA passport

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**Related content**

[Contents](#)

# Process for establishing status

From 1 July 2021, all European Economic Area (EEA) nationals (except Irish citizens covered by section 3ZA of the Immigration Act 1971) seeking entry on the basis that they are protected by the Agreements are required to have applied to the EU Settlement Scheme (EUSS) or obtained an EUSS family permit, hold entry clearance as a Service Provider from Switzerland, or hold a frontier worker permit, unless they are seeking permission to enter as an S2 Healthcare Visitor (unless they wish to enter the UK on a temporary basis for another purpose which does not require entry clearance).

All other EEA nationals coming to the UK for a purpose requiring entry clearance are required to have obtained this **before** they travel.

Under some routes, passengers may be granted either **physical** or **digital** evidence of their status (or both), and **you must accept either form as proof** of the permission that the passenger holds unless you have reasons to suspect that a document is fraudulent.

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Where the passenger does not claim to hold status, you must consider whether they qualify for permission to enter under the Immigration Rules.

For those who state they have status granted by a Crown Dependency, please refer to the Common Travel Area guidance.

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**Related content**

[Contents](#)



# Deportation and exclusion

## Deportation orders

European Economic Area (EEA) nationals and their family members may be subject to a deportation order issued under either the EEA Regulations or the Immigration Act 1971 (including where the individual is subject to automatic deportation under the UK Borders Act 2007).

**The service of a deportation order automatically invalidates any previous leave or permission that an individual held, including EUSS leave.**

Individuals who were served with a deportation order issued under the EEA Regulations prior to making an application to the EU Settlement Scheme (EUSS) will automatically be refused leave.

Where an individual was served with a deportation order issued under the Immigration Act 1971 prior to making an application to the EUSS (for example, prior to becoming an EEA national or their family member), the conduct which gave rise to the deportation order will be considered as part of their EUSS application. If the conduct is not assessed as sufficiently serious to justify refusal on suitability grounds, the EUSS application may be granted. In such cases, the deportation order should normally have been revoked when the EUSS status was granted. If you encounter such an individual, and the deportation order has not been revoked, **you must** still allow them to proceed on the basis of their EUSS status.

In all other cases, regardless of which type of deportation order has been issued, the individual should be considered for mandatory refusal of permission to enter under paragraph 9.2.1(c) of the Immigration Rules.

## Exclusion orders and decisions

A decision to exclude a person from the UK is made either by:

- exclusion decision: a personal decision of the Secretary of State, on the ground that it is conducive to the public good and, where applicable, on the grounds of public policy, public security or public health)
- exclusion order: on the grounds of public policy, public security or public health in accordance with [regulation 27](#) and [Schedule 1](#) of [the Immigration \(European Economic Area\) Regulations 2016](#) (EEA Regulations 2016), or on conducive grounds under regulation 27A of those regulations

EEA nationals and their family members may be subject to an exclusion order or an exclusion decision.

An exclusion decision or an exclusion order does not automatically invalidate any existing leave which is held, but a decision to cancel such leave will normally be taken at the same time that an exclusion order is issued. If you do encounter an

individual who is subject to an exclusion order or exclusion decision but has not had their existing leave cancelled, you should consider cancelling their leave on non-conducive grounds or on public policy or public security grounds, depending on when the conduct occurred and whether they are protected by the Agreements.

Where an individual was excluded by way of an exclusion decision prior to making an application to the EUSS, the conduct which gave rise to the exclusion decision will be considered as part of their EUSS application. If the conduct is not assessed as sufficiently serious to justify refusal on suitability grounds, the EUSS application may be granted. In such cases, the exclusion decision should normally have been revoked when the EUSS status was granted. If you encounter such an individual, and the exclusion direction has not been revoked, **you must** still allow them to proceed on the basis of their EUSS status.

Where you encounter an individual who is subject to an exclusion order or decision, and they do not hold any form of leave or pending EUSS application, the individual should be considered for mandatory refusal of permission to enter under paragraph 9.2.1(c) of the Immigration Rules.

## Pending EUSS applications and Temporary Protection

You may encounter an individual who is subject to a deportation or exclusion order issued under the EEA Regulations 2016 who also has a pending EUSS application.

The same considerations apply as with any other individual with a [pending in time application](#) or [pending late application](#). However, the deportation or exclusion order may be relied on as evidence that the individual was **not lawfully resident** in the UK by 31 December 2020, as their lawful residence was terminated when the deportation order was served, or they have entered in breach of an exclusion order. You are therefore **not** required to accept that such an individual has saved rights or Temporary Protection status. You should still consider mandatory refusal of permission to enter under paragraph 9.2.1(c) of the Immigration Rules, and proceed to remove the individual whilst their EUSS application remains pending.

You may encounter an individual who is subject to a deportation order or exclusion decision who also has a pending EUSS application or would otherwise be treated as having [Temporary Protection status](#).

If the individual has a pending in time application, and was lawfully resident in the UK by 31 December 2020, they will be covered by the saved EEA Regulations. You must therefore assess whether the conduct that they committed which led to the deportation order, exclusion order or exclusion decision meets the conducive threshold or the public policy test, depending on when the conduct occurred. If the individual has been granted an EUSS family permit, EEA family permit or EEA Regulations residence card since the deportation order, exclusion order or exclusion decision was made, you should assume that the conduct was taken into consideration and assessed as not meeting the relevant test, unless evidence suggests it was not considered. If the conduct is sufficiently serious, you may refuse admission under regulation 23 of the EEA Regulations 2016, as saved. If it is not

sufficiently serious, you must treat the individual as having a saved right of admission and allow them to proceed.

If the individual has a pending late application, or is a joining family member who has not yet obtained EUSS leave or an EUSS family permit, you must still assess whether the conduct that they committed which led to the deportation order, exclusion order or exclusion decision is sufficiently serious to meet the conducive threshold or the public policy test, depending on when the conduct occurred. As with pending in time applications, if the individual has been granted an EUSS family permit, EEA family permit or EEA Regulations residence card since the deportation order or exclusion, order or exclusion decision was issued, you should assume that the conduct was taken into consideration and assessed as not meeting the relevant test, unless evidence suggests it was not considered. If the conduct is sufficiently serious, you may refuse entry under paragraph 9.3.1 of the Immigration Rules, but must set out clearly in the decision that you have considered the public policy test in respect of any conduct which occurred before the end of the transition period. If it is not sufficiently serious, you must treat the individual as having Temporary Protection and grant them leave as necessary.

Where an individual with a pending EUSS application has been issued with a deportation order or exclusion decision made under the 1971 Act on non-conductive grounds in respect of conduct which occurred after the end of the transition period, the individual should be considered for mandatory refusal of permission to enter under paragraph 9.2.1(c) of the Immigration Rules

#### **Related content**

[Contents](#)

# Cohorts of EEA nationals and their family members

## EU Settlement Scheme

European Economic Area (EEA) nationals and their family members who were resident in the UK by the end of the transition period were eligible to apply to the EU Settlement Scheme, and had until 30 June 2021 to make an in time application.

Status issued to EEA nationals under the EUSS is digital only, and passengers **must not** be routinely asked to prove their status as part of initial examination.

There are a number of ways in which a non-EEA national may qualify for the EUSS, either on the basis of their own residence as a family member by the end of the transition period, or as a [joining family member](#).

For full details on the circumstances in which a person may be eligible for the EUSS, see the main EUSS guidance.

Where a non-EEA national is granted status under the EUSS, they will be issued with digital status and with a biometric residence card (BRC), unless they hold a BRC issued under the EEA Regulations 2016, in which case they will retain their existing residence card until it expires, at which point they may apply for an EUSS BRC.

You should note that a passenger granted leave under the EUSS in a Crown Dependency also has the same rights to enter the UK, and is likely to be able to prove this by a confirmation letter which may be physical or digital.

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**You must not stamp the passport of an EUSS status holder.**

## Joining family members

A joining family member is an individual of any nationality (including EEA) who was not themselves resident in the UK by 31 December 2020, but is seeking to join a

relevant sponsor in the UK who either holds EUSS status or, [in limited circumstances](#), would be eligible for EUSS status if they applied.

An individual may qualify as a joining family member based on the following relationships:

- spouse or civil partner
- durable partner
- direct descendant (such as child, grandchild) of the relevant sponsor (or of their spouse or civil partner) aged under 21
- direct descendant (such as child, grandchild) of the relevant sponsor (or of their spouse or civil partner) who is aged 21 or over and is dependent on the relevant sponsor (or on their spouse or civil partner)
- dependent relative in the ascending line (such as parent, grandparent) of the relevant sponsor (or of their spouse or civil partner)

It is also possible to qualify as a joining family member in other circumstances, such as where the individual has retained rights. For full details of how an individual qualifies as a joining family member, see the main EUSS guidance.

In almost all cases, a joining family member will be required to obtain entry clearance before they travel to the UK. Depending on their circumstances, some joining family members can apply directly to the EUSS from overseas. Those who are not able to make a direct application to the EUSS from overseas can apply instead for an [EUSS family permit](#).

From 6 October 2021, Appendix EU to the Immigration Rules will permit individuals in the UK as visitors to apply to switch into the EUSS as a joining family member. However, this **does not** affect the provisions of the visitor rules, including the requirement that an individual seeking entry as a visitor must intend to leave the UK at the end of their visit. Where you identify an individual at the border who does not hold entry clearance (or hold or have a pending application for EUSS leave) and intends to settle in the UK as a joining family member, the visitor rules continue to apply and you must refuse permission to enter under paragraph 9.14.1 of the Immigration Rules.

## Temporary Protection status

The starting point is that joining family members should be expected to obtain entry clearance before they travel to the UK.

An individual who claims to be a joining family member but has not submitted a valid EUSS application will only be accepted at the border as having [Temporary Protection](#) if they hold an EUSS family permit (either in-date or expired) or an in-date EEA Regulations BRC.

An individual with a pending EUSS application as a joining family member (which will have “joiner” in the application title on Atlas) will be accepted at the border as having

Temporary Protection if they hold an in-date or expired EUSS family permit, EEA family permit or EEA Regulations BRC.

If a (claimed) joining family member does not hold one of the above documents, but you consider that there are compelling or compassionate reasons why they should be admitted, you may admit them and treat them as if they had [Temporary Protection](#).

Documents issued by the Crown Dependencies must be treated the same as those issued by the UK.

**Where a joining family member has Temporary Protection, they must be granted three months' months LOTR on Code 1A.**

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**You must issue the individual with an “EU temporary protected rights, grant LOTR” letter, which can be printed from Atlas.** The grant of LOTR is to facilitate their entry, and the length of their Temporary Protection status will actually depend on how long their application to the EUSS takes to determine. There is no limit to how many times an individual with Temporary Protection may be granted LOTR at the border.

You may also consider whether [exceptions for criminality](#) apply.

If a joining family member does not hold one of the above documents, and compelling or compassionate circumstances do not apply, you must refuse entry under paragraph 9.14.1 of the Immigration Rules and proceed to remove the individual.

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## EUSS family permit

EUSS family permits are issued to eligible family members (of any nationality) of various cohorts including:

- EEA nationals resident in the UK by the end of the transition period who have obtained status under the EUSS
- before 1 July 2021, EEA nationals resident in the UK by the end of the transition period who were eligible to obtain status under the EUSS
- Irish citizens resident in the UK by the end of the transition period who would be eligible to obtain EUSS status if they applied
- people of Northern Ireland
- frontier workers
- qualifying British citizens

in order to allow them to travel to the UK. For full details of who may apply for an EUSS family permit, see the [EUSS family permit guidance](#).

The EUSS family permit is issued on a Category D vignette with the endorsement:

### **EU SETTLEMENT SCHEME FAMILY PERMIT to join / to acc + name of the EEA national**

An EEA national who was not themselves resident in the UK by the end of the transition period, and wishes to join their EEA national family member who was, is **required** to obtain an EUSS family permit or EUSS leave (or entry clearance under another part of the immigration rules) prior to travel.

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### **You must not stamp the passport of an EUSS family permit holder.**

An individual who enters on an EUSS family permit and applies to the EUSS before the expiry of their permit will have their leave extended by virtue of section 3C (s3C) of the Immigration Act 1971 until such time as their EUSS application is granted, or it is refused and any appeal against refusal is finally determined. They will be issued with a Certificate of Application which will demonstrate their continuing right to enter the UK.

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If an individual with s3C leave as a result of a pending EUSS application leaves the UK before their application is granted, their s3C leave will lapse. If they seek to re-enter the UK, you must grant them Leave Outside the Rules as a person with [Temporary Protection](#).

## **Pending in time EUSS application**

EEA nationals and their family members who were resident in the UK by 31 December 2020 were required to apply to the EUSS by 30 June 2021. When an in time application is made, the individual will be issued with a digital Certificate of Application, which is visible on Border Crossing. Different processes apply to [individuals who miss the deadline](#).

Certain saved provisions in the EEA Regulations 2016 will continue to apply to EEA nationals and their family members whilst they have a pending in time application to the EUSS, where they were lawfully resident in the UK in accordance with those Regulations by the end of the transition period, as well as any EEA national who obtained permanent residence under those Regulations unless they have since been absent from the UK for more than 5 consecutive years.

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An application will be classed as in time where it was submitted on or before 30 June 2021.

An application is to be treated as pending, and therefore the saved provisions in the EEA Regulations 2016 continue to apply, until one of the following occurs:

- the application to the EUSS is granted
- the application to the EUSS is refused and the deadline to appeal expires without an appeal being lodged
- the application to the EUSS is refused, an appeal against the refusal is dismissed, and the individual becomes appeal rights exhausted

The deadline to appeal against an EUSS refusal is 14 days if the individual was in the UK when the decision was served, and 28 days if they were overseas. If an individual is returning to the UK from overseas between 14 and 28 days after their application to the EUSS was refused, they should be assumed to be within their appeal deadline.



Where an individual also has a right of Administrative Review against their refusal, their appeal window does not commence until their Administrative Review rights have been exhausted.

Once the appeal deadline has passed, an individual will lose their saved right of admission. However, if they subsequently lodge an appeal which is admitted by the Tribunal, they will acquire [Temporary Protection](#) and must be treated in the same way as a person who applied late to the EUSS. The same also applies to a person who lodges an administrative review out of time which is accepted by the Home Office.

In practice, you should accept that an EEA national with a pending in time application to the EUSS has a saved right of admission unless one of the following applies:

- they are subject to a deportation or exclusion order
- they are subject to an administrative removal decision, unless they have subsequently been granted admission or residence documentation
- they have been refused admission to the UK and have not subsequently been granted admission or residence documentation
- the application to the EUSS was made from overseas and you are satisfied that the individual was not resident in the UK by 31 December 2020 (unless they had acquired a permanent right of residence by that date)

If, however, you have evidence that the individual was not residing in the UK by 31 December 2020 (for example, the individual admits this to be the case at interview, or their travel history shows they have never previously been to the UK), you may refuse entry under paragraph 9.14.1 of the Immigration Rules and proceed to remove the individual, unless you consider there to be compelling or compassionate reasons why the individual should be admitted. You should not routinely test whether an individual with a pending in time application is resident in the UK, but may do so if you have specific concerns about the individual. This may include, for example, where the individual has previously been deported or removed from the UK.

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The EEA Regulations 2016 will continue to apply in their existing form to those with a pending in time application to the EUSS, subject to amendments which include:

- EEA nationals are no longer entitled to prove their nationality by means other than a valid passport or national identity card
- non-EEA nationals must hold a UK issued residence card or family permit

- individuals may be refused admission under regulation 27A where the decision to refuse is conducive to the public good, on the basis of conduct which occurred after the transition period

You should note that the Crown Dependencies will have specific arrangements in place for those who are eligible for their EUSS schemes but have not yet applied, and those arrangements may mean such individuals still require permission to enter the UK. For further guidance, see common travel area (CTA) guidance.

## Pending in time applications from non-EEA nationals

Where a non-EEA national submits an in time application to the EUSS by 30 June 2021, and they already hold a UK issued residence card or EEA family permit, they will benefit from the [saved provisions of free movement](#) until such time as their application is finally determined.

Where a non-EEA national has submitted an in time application, but does not hold a UK issued residence card or EEA family permit, they will **not** have a right of admission under the saved provisions. This is because regulation 11, as amended, requires that a non-EEA national holds one of those documents in order to qualify for admission.

In such cases, where you are satisfied that a non-EEA national was resident in the UK by 31 December 2020 and has made an in time application to the EUSS, and you have no reason not to accept that they are the family member of an EEA national or otherwise qualify for the EUSS, you **must** treat them as having Temporary Protection status. **They must be granted three months' months LOTR on Code 1A.**

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**You must issue the individual with an “EU temporary protected rights, LOTR granted” letter, which can be generated on Atlas.** The grant of LOTR is to facilitate their entry, and the length of their Temporary Protection status will actually depend on how long their application to the EUSS takes to determine. There is no limit to how many times an individual with Temporary Protection may be granted LOTR at the border.

Where the non-EEA national was not resident in the UK by 31 December 2020, **you must** treat them as a [joining family member arriving without entry clearance](#).

## Pending in time applications from EUSS family permit holders

EUSS family permit holders are required to apply to the EUSS by 30 June 2021 or, where they are a joining family member who arrived in the UK on or after 1 April 2021, within 3 months of their first entry to the UK.

Where an EUSS family permit holder applies to the EUSS during the validity of their permit, and the permit expires before their application is determined, their leave will be extended by virtue of section 3C of the Immigration Act 1971.

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If an individual with s3C leave leaves the UK before their EUSS application is granted, their s3C leave will lapse. If they seek to re-enter the UK, you must grant them Leave Outside the Rules as a person with [Temporary Protection](#).

## Long term residents and ILE/R holders

EEA nationals and their family members who hold ILE/R other than under the EUSS are not required to apply to the EUSS, and may continue to reside in the UK and cross the border in accordance with the conditions of their existing leave. They may choose to apply to the EUSS if they wish to do so.

Where an individual presents at the border with evidence that they hold ILE/R, they **must** be allowed to proceed on the basis of that leave, **unless** there are grounds to believe that it may be cancelled or has lapsed.

Some EEA nationals or their family members may believe that they are not required to apply to the EUSS because they have lived in the UK for a long time. This is only true if they meet the Windrush criteria, or otherwise hold ILE/R.

In all other cases, the individual must be considered as a [person who has failed to apply to the EUSS by the deadline](#). Where you are satisfied that the individual has resided in the UK for a significantly long period of time, you may consider that their circumstances are sufficiently compelling so as to justify a grant of LOTR for 28 days as opposed to refusing entry and granting bail.

## Windrush cases

EEA nationals and their family members who have not applied to the EUSS may be entitled to assistance under the “Windrush Scheme”, depending on when they began residing in the UK and whether they obtained ILE/R.

## Settled in the UK before 1 January 1973

The Immigration Act 1971 came into force on 1 January 1973 (the date on which the UK joined the European Economic Community).

Any individual of any nationality who was settled in the UK on that date had ILR automatically conferred on them.

Some Commonwealth citizens (which includes Cyprus and Malta) may also have a right of abode, and may be entitled to apply for British citizenship.

Because ILR was conferred automatically, many individuals never obtained documentary evidence of their status.

If you encounter an individual who claims to have resided in the UK since before 1 January 1973 but does not have documentary evidence of their status, you **must** consider them in line with the Windrush guidance.

This means that provided you are satisfied based on the desk interview that they were settled in the UK before 1 January 1973, and they have not been absent from the UK for more than 2 years, you should land them as a returning resident, and no further grant of leave is required.

If you are satisfied that the individual was settled before 1 January 1973 but they have been absent for more than 2 years, their ILR will have lapsed. You should consider granting LOTR for 3 months on Code 1. The exception to this is where an individual who was absent for more than two years was subsequently re-granted ILE/R, and has not been absent from the UK for more than two years since their most recent grant of ILE/R. In such cases you should land them as a returning resident, and no further grant of leave is required.

In either case, you must advise the individual that they should obtain evidence of their status. They may choose to apply to the Windrush Scheme or the EUSS. Advice on applying can be found at <https://www.gov.uk/settled-status-eu-citizens-families/if-you-have-permanent-residence-or-indefinite-leave-to-remain>.

## Arrived in the UK between 1973 and 31 December 1988, and obtained ILE/R

Individuals of any nationality who arrived in the UK between 1973 and 31 December 1988, and at some stage obtained ILE/R, may be eligible for assistance under the Windrush Scheme if they do not have evidence of their ILE/R.

If you encounter an individual who claims to be part of this cohort, but does not have documentary evidence of their status, you must consider them in line with the Windrush guidance.

This means that provided you are satisfied based on the desk interview that they arrived in the UK between 1973 and 31 December 1988 and obtained ILE/R at some

stage, and they have not been continuously absent from the UK for more than 2 years since their most recent grant of ILE/R, you should land them as a returning resident, and no further grant of leave is required.

If the individual claims to have a document proving their ILE/R, but has not carried it with them, you should advise them to carry it on future occasions when travelling in and out of the UK. You should also advise them that it may be easier for them to apply to the Windrush Scheme or the EUSS in order to prove their status when necessary.

If the individual does not claim to have a document proving their ILE/R, you must advise the individual that they should obtain evidence of their status. They may choose to apply to the Windrush Scheme or the EUSS.

Advice on applying can be found at <https://www.gov.uk/settled-status-eu-citizens-families/if-you-have-permanent-residence-or-indefinite-leave-to-remain>.

If you are satisfied that the individual is part of this cohort but has been continuously absent from the UK for more than 2 years at any stage (and they have not subsequently been re-granted ILE/R), their ILE/R will have lapsed and they are not eligible for the Windrush Scheme. However, they may still be eligible for the EUSS and should be advised to apply. Such individuals must be considered as a [person who has failed to apply to the EUSS by the deadline](#), but based on their length of residence you may consider it appropriate to grant them LOTR for 28 days on Code 3 as opposed to refusing entry and granting bail.

## Other individuals claiming to hold ILE/R

### Claims granted ILE/R since 2002

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#### Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use.

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#### Official – sensitive: end of section

If you are able to locate evidence that an individual holds ILE/R, you must treat them as a returning resident, and allow them to proceed, unless there are grounds to believe that their leave may be cancelled or has lapsed. You should advise them that on future occasions they must carry evidence of their ILE/R, and that they may find it easier to apply for a Biometric Residence Permit under the NTL process, or they can apply to the EUSS for free.

If you are unable to locate evidence that an individual holds ILE/R, you must assess whether their account is credible. The longer ago that they claim ILE/R was issued,

the more plausible it is likely to be that it cannot be located on Home Office systems. An individual is also more likely to have been granted ILE/R when they were not a national of an EU Member State, so it may be relevant to consider whether the claimed date of grant is prior to the individual's country of nationality joining the EU.

If you are satisfied that the individual does hold ILE/R, you must treat them as a returning resident, and allow them to proceed, unless there are grounds to believe that their leave may be cancelled or has lapsed. You should advise them that on future occasions they must carry evidence of their ILE/R, and that they may find it easier to apply for a Biometric Residence Permit under the NTL process, or they can apply to the EUSS for free.

If you are satisfied that the individual was granted ILE/R but has been continuously absent from the UK for more than 2 years at any stage, their ILE/R will have lapsed. However, they may still be eligible for the EUSS and should be advised to apply. Such individuals must be considered as a [person who has failed to apply to the EUSS by the deadline](#), but based on their length of residence you may consider it appropriate to grant them LOTR for 28 days on Code 3 as opposed to refusing entry and granting bail.

If you are not satisfied that the individual has been granted ILE/R, you should treat them as a person who has failed to apply to the EUSS before the deadline.

## Claims granted ILE/R pre 2002

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### Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use.

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### Official – sensitive: end of section

Where an individual claims to have been granted ILE/R prior to 2002, but does not have a document to prove this, you must decide whether you are satisfied that they hold this status based on answers that they give at the desk interview and any supporting evidence about their life in the UK that they can provide. An individual is also more likely to have been granted ILE/R when they were not a national of an EU Member State, so it may be relevant to consider whether the claimed date of grant is prior to the individual's country of nationality joining the EU.

If you are satisfied that the individual does hold ILE/R, you must treat them as a returning resident, and allow them to proceed, unless there are grounds to believe that their leave may be cancelled or has lapsed. You should advise them that on future occasions they must carry evidence of their ILE/R, and that they may find it easier to apply for a Biometric Residence Permit under the NTL process, or they can apply to the EUSS for free.

If you are satisfied that the individual was granted ILE/R but has been continuously absent from the UK for more than 2 years at any stage, their ILE/R will have lapsed. However, they may still be eligible for the EUSS and should be advised to apply. Such individuals must be considered as a person who has failed to apply to the EUSS by the deadline, but based on their length of residence you may consider it appropriate to grant them LOTR for 28 days on Code 3 as opposed to refusing entry and granting bail.

If you are not satisfied that the individual has been granted ILE/R, you should treat them as a [person who has failed to apply to the EUSS before the deadline](#).

## People who acquired EEA nationality after 31 December 2020

You may encounter an individual who presents an EEA passport or national identity card which was issued after 31 December 2020, but who has a prior UK immigration history in another nationality. Such individuals may have applied to the EU Settlement Scheme, or claim that they are eligible and intend to apply.

In order to be eligible for the EUSS, or have any saved rights of free movement, an individual must have been living in the UK as an EEA national by 31 December 2020 or be the relevant family member of such an EEA national. The burden is on the individual to show that they were an EEA national at the relevant time. Where there is no evidence that an individual was an EEA national prior to 2021, the fact that they have applied to the EUSS will not give them saved rights. You should note that, depending on the nationality law of a country, it is possible that an individual has been an EEA national since birth but only recently acquired a passport or national identity card. In such cases, the burden still remains on the individual to provide evidence that they were an EEA national at the relevant time.

In such cases, unless the individual otherwise qualifies for entry under the Immigration Rules, you may refuse permission to enter under paragraph 9.14.1 (and any other relevant paragraphs), on the basis that the individual intends to settle in the UK without entry clearance.

## EEA family permit

During the grace period, direct family members and durable partners of any nationality remained able to apply for an EEA family permit where they were sponsored by an individual who continued to be subject to the saved EEA Regulations 2016 after the transition period.

Until 19 March 2021, EEA family permits continued to be issued with a 6-month validity period. After then, all EEA family permits have been issued with an expiry date of 30 June 2021. An EEA family permit cannot be used for travel to the UK after 30 June 2021, whatever its expiry date.

Where an individual arrives at the border with an EEA family permit, and they have not made any other application, **you must consider** whether they qualify for entry

under the Immigration Rules, and otherwise consider them as a [joining family member without entry clearance](#).

## Family member of an individual who does not require or cannot apply for EUSS status

There are certain categories of individual who are not entitled to apply for EUSS status themselves (or in some cases are not required to apply), but where their eligible family members are still entitled to join them and are eligible for EUSS status or an EUSS family permit.

This includes eligible family members of:

- EEA nationals who are exempt from immigration control
- Irish citizens
- relevant persons of Northern Ireland
- qualifying British citizens (“Surinder Singh cases”)
- relevant naturalised British citizens (“Lounes cases”)
- dual British-EEA citizens (“McCarthy cases”)

With the exception of family members of qualifying British citizens, the following deadlines apply:

Where the non-EEA family member was residing in the UK by 11.00pm on 31 December 2020, they have until 30 June 2021 to apply to the EUSS, unless there are reasonable grounds for making a late application.

For joining family members **there is no time limit for an application for an EUSS family permit**. That means that provided that the familial relationship existed before 11.00pm on 31 December 2020 (including a durable partnership that has become a marriage or civil partnership after that date), or the family member is the spouse or civil partner of a Swiss national where that marriage or civil partnership took place before 1 January 2026, or the family member is a child born or adopted after 11.00pm on 31 December 2020), the family member will be entitled to apply for an EUSS family permit to enter the UK at any time. This could include a family member who was previously resident in the UK but has been absent for too long to qualify for the EUSS based on their residence in the UK before the end of the transition period. Once they have entered the UK, they will have until 30 June 2021 or three months from their date of arrival, whichever is the later, to apply to the EUSS, unless there are reasonable grounds for making a late application.

## Family member of a qualifying British citizen

You should note that in certain cases, the family member of a qualifying British citizen (QBC) was required to return to the UK by 11.00pm on 31 December 2020. If you encounter such cases, unless there are reasonable grounds why they did not return to the UK with the QBC by the required date, you should consider whether to grant or refuse permission to enter under the Immigration Rules. These cases are:



- the spouse or civil partner (or the child or dependent parent of the spouse or civil partner) of a QBC where the marriage or civil partnership was formed after 11.00pm on 31 January 2020 (unless they were in a durable partnership prior to that date)
- the durable partner of a QBC where the relationship was formed after 11.00pm on 31 January 2020
- the dependent relative of a QBC or of their spouse or civil partner

In all other cases, a family member of a QBC may apply for an EUSS family permit in order to return to the UK with the QBC at any time before 11.00pm GMT on 29 March 2022, unless there are reasonable grounds why they did not return to the UK with the QBC by that date. Unless they satisfy another part of the Immigration Rules, the family member will **not** be entitled to enter the UK without an EUSS family permit, and should be considered for refusal.

## Frontier workers

A frontier worker is an EEA national who pursued an economic activity in the UK by 31 December 2020 (by being employed or self-employed) and continues to do so but is not primarily resident in the UK. Their travel to the UK can be occasional or ad hoc (for example once or twice a year, or to complete occasional contracts) or regular (for example working in the UK during the week and returning home at the weekend).

The basic requirements to be a frontier worker are that the EEA national both:

- undertakes genuine and effective work in the UK
- is not primarily resident in the UK, which means they either:
  - spend less than 180 days in the UK in any 12 month period
  - return to their country of residence at least once every 6 months
  - return to their country of residence at least twice in every 12 months

Where an EEA national was a frontier worker by the end of the transition period, they will continue to have rights as a frontier worker after the transition period for as long as they continue to be a frontier worker. It is also possible to “retain” rights as a frontier worker in certain circumstances. Frontier workers have a **right** to enter the UK and **do not** require permission to enter.

From 1 July 2021, a frontier worker (unless they are an Irish citizen) is **required** to hold a frontier worker permit to enter the UK for work. This permit may either be issued digitally or as a physical document.

You should not subject a frontier worker to further examination unless you have grounds to believe that they may be refused.

For further guidance, see frontier workers.

Family members of frontier workers are eligible to apply to the EUSS. If they were not resident in the UK by the end of the transition period, they must obtain EUSS

status or an EUSS family permit **before** they travel to the UK if they intend to stay in the UK for longer than 6 months or they are a visa national. They are not entitled to seek admission as a family member of a frontier worker at the border without having obtained prior permission, although they may seek permission to enter as a visitor if they are a non-visa national and intend to remain for 6 months or less.

## Service Providers from Switzerland

Service Providers from Switzerland are issued with a vignette which enables them to come to the UK for up to 90 days per calendar year to fulfil a pre-existing work contract. Entry clearance must be obtained in advance of travel.

This does not prevent them from also travelling to the UK on other occasions as a visitor, if they have permission to do so.

The Service Providers from Switzerland route is open to all nationalities, but only Swiss nationals will be able to travel using a national identity card (with the associated vignette attached to a separate form).

For further guidance, see Service Providers from Switzerland.

## S2 Healthcare Visitors

Residents of EU or EEA States or Switzerland, who applied by the end of the transition period to have a course of planned healthcare treatment in the UK under the 'S2 arrangements route', are entitled (if that authorisation is granted) to travel to the UK to undergo the treatment. They may also be accompanied by another person such as a friend, family member or carer for the purpose of providing care and support during the course of planned treatment. These passengers may be any nationality, but accompanying persons must reside in the EEA or Switzerland. Patients whose treatment is authorised are issued with an 'S2 certificate of entitlement to scheduled treatment' (also known as a 'Portable Document S2'). If the S2 certificate is not held, then the passenger should normally be refused.

An S2 Healthcare Visitor may apply in advance for entry clearance if they wish to. They are only required to apply for entry clearance if they are a visa national. Otherwise, they may obtain permission to enter at the border.

EEA (and B5JSSK) patients holding a valid S2 certificate of entitlement to scheduled treatment and accompanying persons may also obtain permission to enter as an S2 Healthcare Visitor by passing through an eGate (where eligible to use an eGate).

Where an EEA patient holding an S2 certificate of entitlement to scheduled treatment or accompanying person (holding the relevant patient information) presents at the primary control point, they should be granted permission to enter orally, unless there are grounds to believe that they may be refused.

For further guidance, see S2 Healthcare Visitors. For guidance on those arriving via Ireland, where the arrangements are different, please see the CTA guidance.

## Points-based system

EEA nationals are eligible to apply for points-based system routes as they are introduced.

In most cases, permission will be granted digitally, although a limited number of passengers may possess physical evidence of their status.

Where you have established that a passenger has been issued with permission under the points-based system, you should allow them to proceed unless you believe that they may be refused.

Family members of EEA nationals granted permission under the points-based system are required to apply in advance for permission to enter as a dependant of a points-based system migrant, or in another capacity under the Immigration Rules.

For further guidance, see points-based system.

## Visitors

EEA nationals do not require entry clearance to come to the UK as a visitor for up to 6 months.

You should process EEA visitors in the same manner as B5JSSK visitors.

Permission to enter as a visitor should be granted **orally**.

For guidance on those arriving via Ireland or the Crown Dependencies, where the arrangements are different, please see the CTA guidance.

## Marriage Visitors

After the grace period, an EEA national who does not hold permission or a right of admission in another category requires a “marriage visitor visa” in order to visit the UK for the purpose of forming a marriage or civil partnership.

## Visitors coming to look for work

Coming to the UK to look for work on a speculative basis is not in itself a “permitted activity” as defined in [Appendix Visitor: Permitted Activities](#) to the Immigration Rules.

Where seeking work is the **sole purpose** of an individual’s proposed visit, unless it is to attend a pre-arranged interview, they are unlikely to be able to satisfy the genuine visitor requirement in paragraph V4.2 of Appendix Visitor.

Where an individual is coming to the UK for a purpose listed in Appendix Visitor: Permitted Activities, such as tourism or to visit family, and intends to additionally look for work during their visit, they **may** be able to satisfy the visitor requirements, as

looking for work is not a prohibited activity. Whether they can in fact satisfy the requirements will depend on a holistic consideration of their circumstances and intentions. **You must** be satisfied that the individual would not undertake work during their stay as a visitor, should they be successful in obtaining employment, and that they intend to leave the UK at the end of their stay. If you are satisfied that the individual would leave the UK and seek the appropriate entry clearance prior to starting any period of employment, then it is likely you may be granting permission to enter as a visitor. If you are satisfied that they would work whilst in the UK as a visitor or fail to leave at the end of their visit, then they are unlikely to be able to meet the Immigration Rules for visitors.

In assessing the credibility of whether an individual intends to leave the UK, and/or to apply for the appropriate entry clearance, you may consider the nature of the employment that they are seeking and whether there is an entry clearance route available for such employment, as well as whether they have maintained ties to return to in their home country (for example, do they still have an address to return to, or do they have a credible plan for what they will do if they are unable to secure employment in the UK).

## Seafarers

EEA nationals who do not hold any existing permission or status, and are seeking to enter the UK as operational crew of a vessel, or are arriving in order to join a vessel as operational crew, must be considered in accordance with the seamen guidance.

As a non-visa national, an EEA national contract seaman is **not** required to obtain entry clearance or hold an ILO compliant seaman's book in order to join a vessel, but they must meet the requirements set out in the above guidance:

- they hold a valid passport, ILO compliant seaman's book or other acceptable travel document
- they hold a valid contract of employment confirming that they are 'actually employed in the working or service of a ship'
- confirmation that the vessel to be joined is at port in the UK and due to leave UK territorial waters

Where the above conditions are met, an EEA national may **either** be granted permission to enter under Code 7 (contract seaman), which requires that they leave on the specified vessel, **or** Code 5N (visitor), which requires that they comply with the standard conditions as a [visitor](#). Visitor leave may be granted orally.

As with seafarers of all other nationalities, EEA contract seaman require permission to work where they are joining a vessel which will operate wholly or mainly in UK territorial waters.

## Passengers requiring an entry stamp

EEA nationals will only require an entry stamp where they are seeking entry either:

- as a creative worker visa concession Certificate of Sponsorship (CoS) holder
- to take part in Permitted Paid Engagements

Individuals seeking permission to enter in the above capacities are required to see an officer. You **must** endorse their passport.

Where an EEA national seeking permission to enter in the above capacities uses an eGate by mistake, you should follow the process for eGate eligible nationals.

#### **Related content**

[Contents](#)

# People who missed the EUSS deadline or did not obtain an EUSS family permit

## Deadlines to apply

Although the grace period ended on 30 June 2021, this is not the deadline to apply to the EU Settlement Scheme (EUSS) in all cases.

For those EEA nationals and their family members who were resident in the UK by 31 December 2020, the deadline to apply to the EUSS was 30 June 2021.

There is no deadline to apply for an EUSS family permit, although the familial relationship must have existed before the end of the transition period, other than in the case of a child born or adopted after that date.

An individual who enters the UK with an EUSS family permit, or otherwise as a joining family member of an EEA national resident in the UK by the end of the transition period, must apply to the EUSS by 30 June 2021, or within 3 months of their first arrival in the UK, whichever is the later date.

Depending on the nature of the [family relationship](#), the family member of a qualifying British citizen must return with them to the UK by the end of the transition period and apply to the EUSS by 30 June 2021, or return with them to the UK and apply to the EUSS by 11.00pm on 29 March 2022, unless, in either case, there are reasonable grounds for their failure to return to the UK by the relevant date. However, in order to do so, they are still required to obtain an EUSS family permit or, where they have previously returned to the UK with the qualifying British citizen and are currently overseas within a period of absence permitted under the scheme, EUSS leave.

An individual who is eligible for the EUSS but holds permission to enter or stay in another capacity must apply to the EUSS before their existing permission expires. This does not include ILR holders, who are not required to apply to the EUSS.

An individual who ceases to be exempt from immigration control must apply to the EUSS within 90 days of ceasing to be exempt, where they have not applied to the EUSS whilst they remained exempt.

## Late applications

**Under the terms of the Agreements, a late application to the EUSS can be made where there are “reasonable grounds” for the failure to meet the relevant deadline.** The assessment of whether reasonable grounds apply will be completed by UKVI in accordance with the section entitled “Reasonable grounds for failing to meet the deadline” in the main EUSS guidance.

In general, the more time which has elapsed since the deadline applicable to the person under the scheme, the harder it will be for them to satisfy UKVI that, at the date of application, there are reasonable grounds for their failure to meet that deadline.

Some examples of what may constitute reasonable grounds include where:

- a responsible adult failed to apply on behalf of a child
- an individual lacked the physical or mental capacity to apply
- an individual has care or support needs
- an individual had a serious medical condition or was undergoing significant medical treatment around the time of the deadline
- an individual was a victim of modern slavery
- an individual was a victim of domestic violence or abuse, or was in a controlling relationship or situation which prevented them from applying

The above list is not exhaustive, and individual circumstances will be taken into consideration in each case.

## Pending late applications

Where an individual applied to the EUSS on or after 1 July 2021 and their application remains pending (including during the period in which they may appeal against a refusal, and until any appeal is finally determined), you **must** ask them to provide evidence that they were resident in the UK by 31 December 2020. The same level of evidence applies here as applies in the border [approach to those who miss the deadline](#). If the individual has already provided evidence of residence to Border Force on a previous occasion (e.g. to enable bail or LOTR to be granted), they do not need to provide this evidence again.

This also applies to any individual who has had their EUSS application refused (regardless of whether they applied in time or late) and did not appeal by the deadline, but subsequently has an out of time appeal admitted by the Tribunal, or an out of time administrative review accepted by the Home Office.

If the individual cannot provide any evidence of UK residence by 31 December 2020, or that they are a joining family member who benefits from Temporary Protection, you **must** refuse entry under paragraph 9.14.1 of the Immigration Rules and proceed to remove the individual, unless you consider there to be compelling or compassionate reasons as to why the individual should be admitted.

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Where the individual can provide evidence of residence by 31 December 2020, they will have “Temporary Protection”. **They must be granted 3 months LOTR on Code 1A.** Individuals who have a pending application as a [joining family member](#) are subject to a separate consideration.

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**You must issue the individual with an “EU temporary protected rights, LOTR granted” letter, which can be generated on Atlas..** The grant of LOTR is to facilitate their entry, and the length of their Temporary Protection status will actually depend on how long their application to the EUSS takes to determine. There is no limit to how many times an individual with Temporary Protection may be granted LOTR at the border.

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Individuals with a pending late application to a Crown Dependency EUSS must be treated the same as those with a pending late application to the UK EUSS.

## Late applications submitted after refusal of permission to enter

Where an individual is refused permission to enter but given bail for 28 days in order to make a late application, and they submit an EUSS application from in country, you must follow the guidance on [actions after a late EUSS application is made](#).

In most other cases where an individual is refused permission to enter, they will be removed directly from port. However, where it is necessary to bail an individual pending removal, there is nothing to prevent them from applying to the EUSS whilst on bail.

Whether that late EUSS application will constitute a barrier to removal will depend on the individual circumstances of the case. You must consider any new information provided by the individual since the refusal of permission to enter before deciding whether removal can proceed.



The late application will **not** normally be a barrier to removal where at least one of the following applies:

- the individual has already had an application to the EUSS refused, and has not produced further evidence at the border or in their new application which shows that they are likely to be eligible for a grant of status
- it was established when refusing permission to enter that the individual was not resident in the UK by 31 December 2020, and is not a joining family member (either on the basis that the individual themselves does not claim to meet this criteria, or because other evidence held by the Home Office proves this to be the case)
- the individual is subject to a [deportation or exclusion decision](#)
- the [exceptions for criminality](#) apply

Where the late application is not a barrier to removal, removal directions may still be set, and absconder action commenced if the individual fails to comply with the requirements of their bail.

The late application **will** be a barrier to removal where evidence provided (including any new information provided as part of the application or since the refusal of permission to enter) establishes that the individual was in fact resident by 31 December 2020, or qualifies for Temporary Protection either on the basis of their [own residence](#), or as a [joining family member](#). In such cases, you **must** follow the guidance on [actions after a late EUSS application is made](#).

Where the individual claimed to have been resident in the UK by 31 December 2020, but was refused permission to enter as they could not provide any evidence to substantiate this claim, a late application submitted whilst on bail should normally be treated as a barrier to removal, unless there is available evidence which disproves their claim. In such cases the guidance on [actions after a late EUSS application is made](#) should be followed, however the individual should be advised that if they travel outside of the UK whilst their application is still pending, they will be required to provide evidence of their previous evidence in order to be re-admitted.

Where the individual has been refused permission to enter because they are a claimed [joining family member without entry clearance](#), and they do not hold the necessary documents to benefit from Temporary Protection, a late application submitted whilst on bail should normally be treated as a barrier to removal, unless the available evidence clearly establishes that they are not in fact a joining family member (for example, evidence of relationship has been established to be fraudulent, the [claimed relationship](#) is not one which qualifies under the EUSS). In such cases the guidance on [actions after a late EUSS application is made](#) should be followed, however the individual should be advised that if they travel outside of the UK whilst their application is still pending, they are unlikely to be re-admitted.

## In country approach to those who miss the deadline

Where an individual is encountered in country, and there is reason to believe that they are eligible for the EUSS but have missed the deadline to apply, they will be

referred to Immigration Enforcement and served with a “28 Day Notice for EUSS”. This provides a period of normally 28 calendar days (or 35 calendar days if the notice is served by post) in which no enforcement action will be taken against the individual, during which they can make a late application to the EUSS.

## Border approach to those who miss the deadline

**The overall approach requires that all individuals be given an opportunity to make a late application to the EUSS.**

Where you encounter an EEA national or their family member at the border after 30 June 2021, who has not made an application to the EUSS but claims that they were resident in the UK by 31 December 2020, you **must** assess their claim based on the evidence available to you.

When assessing whether such an individual was resident in the UK by 31 December 2020, you may ask the individual (or any accompanying passenger who may hold evidence on their behalf) to provide evidence to support this claim. Such evidence may include, but is not limited to:

- documentation issued under the EEA Regulations 2016 (such as a residence card or registration certificate)
- proof of employment or receipt of benefits
- other employment related documents (such as letter confirming NI number, CSCS card, Trade Union membership)
- proof of housing (including evidence of a mortgage or tenancy agreement)
- proof of attendance at an educational institution
- utility bills
- a UK bank account opened by 31 December 2020
- online banking transactions that clearly show that the individual was present in the UK by 31 December 2020
- proof of registration with a UK GP surgery or other NHS correspondence
- proof of previous travel

When assessing evidence of residence, you should also consider the [length of absence from the UK](#).

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You must particularly consider other checks that you can carry out, such as internet searches to verify information or requesting a friend or relative to bring documentation to port, where the individual's circumstances mean that it is more difficult for them to produce evidence of their UK residence to you on arrival. This

could include, for example, where the individual is a child or has care needs, or personal circumstances mean that they rely solely on paper documents which they have not carried with them whilst travelling.

**In all cases, where the individual can establish to the balance of probabilities that they were resident in the UK by 31 December 2020, you must give them the benefit of the doubt** and either refuse them permission to enter but [grant immigration bail to allow them to make a late application in country](#) or, where compelling circumstances apply, grant them a period of leave outside the rules. There is a different approach to be taken at [juxtaposed ports](#).

Where an individual cannot provide any evidence to support their claim, and any further checks have also not substantiated their previous claimed UK residence, and they do not qualify for permission to enter under the Immigration Rules, you may proceed straight to removal after refusal of permission to enter.

**In an individual case, you may be satisfied that the circumstances are sufficiently compelling or compassionate so as to justify a grant of Leave Outside the Rules (LOTR).** Where you consider that the Leave Outside the Rules policy is engaged, you may grant LOTR as an alternative to bail. LOTR should in most cases be granted on Code 3, and in all cases for 28 calendar days. If you are granting LOTR instead of bail, you must serve the juxtaposed 28 Day Letter instead of the bail letter. A grant of LOTR in these cases requires the authority of a Senior Officer or above.

## Children or vulnerable adults without EUSS applications

You may encounter children at the border, where their parent(s) or guardian have obtained EUSS for themselves or have a pending application, but they have not applied for the child.

In such cases, provided that you are satisfied as to the relationship between the adult and the child, you should treat the circumstances as sufficiently compelling (in light also of the s.55 duty) so as to warrant a grant of LOTR instead of refusing entry and granting bail.

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In cases where neither the parents nor the child have applied to the EUSS, you must continue to process the whole family in line with this guidance, including requiring evidence to show that the family was resident in the UK by the end of the transition period.

### **Juxtaposed ports approach to those who miss the deadline**

At juxtaposed ports, where you encounter an EEA national or their family member after 30 June 2021 who has not made an application to the EUSS but was resident in the UK by 31 December 2020, you may **either** refuse permission to enter and remove the individual from the control zone, **or** grant Leave Outside the Rules on a Code 3 for 28 calendar days.

You **must** grant Leave Outside the Rules to individuals who have missed the deadline of 30 June 2021, but hold an **unexpired** document issued by the Home Office under the EEA Regulations. This includes biometric residence cards, permanent residence cards, registration certificates, documents certifying permanent residence, and EEA family permits. Although these documents no longer provide a basis of entry to the UK, they may still purport to be valid, and such individuals must therefore be provided with an opportunity to make a late application to the EUSS in country.

In all other cases, you must follow the [general approach taken at UK ports](#) to establish whether an individual was resident in the UK by 31 December 2020. Where you are satisfied that the individual was resident in the UK by that date, you should generally grant LOTR where you are satisfied that it would be disproportionate to refuse them and require them to make a late application to the EUSS overseas.

This list is non-exhaustive, but circumstances which may mean that removal is disproportionate include:

- where the best interests of a child would be met by allowing the individual to enter the UK to make a late application in country (whether or not the individual themselves is the relevant child), including the case of a child whose parents applied to the EUSS for themselves but did not apply for the child

- where the individual is vulnerable and may require support in completing their application, particularly where they lack the mental or physical capacity to make the application themselves
- where other vulnerable persons are dependent on the presence of the individual in the UK
- where the individual has no ties to any other country to which they could return whilst they submitted a late application overseas
- where the individual has compelling reasons for having missed the deadline (but noting that Border Force is not responsible for determining whether there are reasonable grounds for a late application)
- where there is clear and credible evidence that the individual was resident in the UK by 31 December 2020 (and as such, they would be allowed to enter on immigration bail if they had arrived at a UK port)

Where you are satisfied that refusal would be disproportionate, you must grant Leave Outside the Rules on a Code 3 for 28 calendar days, and advise the individual that they must make their application to the EUSS within that period or they will become an overstayer, by issuing a 28 day letter to that effect.

Where you are not satisfied that refusal would be disproportionate, you may refuse the individual and advise them that they may make a late application to the EUSS from overseas, should they wish to do so.

## Length of absence from the UK

Where you are assessing evidence provided by an individual without EUSS leave or a valid entry clearance to show that they were resident in the UK by 31 December 2020, it may be necessary to consider the length of time that they have been absent from the UK.

Where an individual can establish that they acquired a right of permanent residence in the UK (by exercising Treaty Rights or otherwise residing in accordance with the EEA Regulations 2016 for 5 years), they may be continuously absent from the UK for up to 5 years and still qualify for the EUSS.

In all other cases, the length of the absence, as well as the reason for the absence, will be relevant to whether the individual is eligible for the EUSS.

## Absence of less than 6 months

In all cases, where an individual can prove that they were resident in the UK by 31 December 2020 and have not been absent from the UK for more than 6 months, they should be granted bail or LOTR as appropriate.

### Example

The passenger presents at port in September 2021, and can provide online banking transactions showing that they used their debit card in the UK regularly between November 2020 and August 2021, when they left the UK to visit family

overseas. This evidence demonstrates residence by 31 December 2020 and within the last 6 months, and so bail or LOTR will be appropriate.

Where an individual can provide evidence of residence by 31 December 2020 and claims to have been absent for less than 6 months but cannot prove this, you must assess the credibility of their claim. **If you are satisfied that their account is credible, you must grant bail or LOTR.** If you are not satisfied that their account is credible, consider their case as having an [absence of more than 6 months](#). As part of this consideration, you may consider that some types of evidence (for example, that relating to ongoing employment or address) have more weight than others (for example, online banking or a hospital appointment).

## Examples

The passenger presents at port in August 2021, and can provide a tenancy agreement dated September 2020. They state that they have lived at that address since the tenancy started and have just been on holiday. Where there is no reason to doubt that claim, you should accept their evidence and grant bail or LOTR as appropriate.

The passenger presents at port in October 2021, and can provide an email confirming a doctor's appointment in November 2020. They have no further evidence showing that they have been in the UK since November 2020 and you are not satisfied with their account of their recent residence. You should therefore consider them as a person with an [absence of more than 6 months](#).

## Absence of more than 6 months

Under the EUSS eligibility rules, an individual may be absent from the UK for more than 6 months and up to 12 months for an "important reason". This includes pregnancy, childbirth, serious illness, study, vocational training or an overseas posting, as well as reasons relating to COVID-19. An individual who has been absent from the UK for more than 12 months will not generally be eligible for the EUSS. However, a concession has been introduced, (and reflected in the Immigration Rules from 6 October 2021), which means that an individual who was absent from the UK for an "important reason", **and** whose absence exceeded 12 months because COVID-19 meant that the person was prevented from, or advised against, returning to the UK earlier, will still be eligible for the EUSS.

Border Force officers are not directly responsible for assessing whether an individual is eligible for the EUSS. Therefore, where there is doubt about the length of time that an individual has been absent or the reason for that absence, the individual should be given the benefit of the doubt and given bail or LOTR to apply to the EUSS and enable UKVI to make the final assessment.

Where an individual can provide evidence that they were resident in the UK by 31 December 2020, but there is no evidence that the individual was resident in the UK in the last 6 months, the individual should be asked the reasons for their absence.

Where there is evidence of residence within the last 12 months, and the individual indicates that they have been absent from the UK due to COVID-19, pregnancy, childbirth, serious illness, study, vocational training or an overseas posting, unless there are clear reasons to doubt the credibility of the claim, they should be granted bail or LOTR as appropriate. Reasons to doubt credibility may include the fact that the evidence shows that the individual briefly visited the UK on holiday in 2020 and did not in fact reside here.

Where there is evidence that an individual was resident in the UK more than 12 months ago, you must consider whether the claimed reason for an absence of up to 12 months is an “important reason” as described above (which may include reasons relating to COVID-19) and, additionally, whether their absence was extended beyond 12 months because COVID-19 meant that the person was prevented from, or advised against, returning to the UK earlier.

### Examples

The passenger presents at port in September 2021, and can provide evidence that they were studying at university in person in the UK until April 2020, at which point they returned to their home country to study remotely in line with the COVID-19 advice from their university and intended to return to the UK within 12 months. The passenger is, however, in a group of people identified as being at an increased risk as a result of COVID-19 and, following public health advice, remained overseas while shielding. Their absence therefore exceeded 12 months because COVID-19 prevented their return to the UK earlier. This excess absence does not break the passenger’s continuous qualifying period of residence for eligibility under the EUSS and they should be granted bail or LOTR as appropriate.

The passenger presents at port in October 2021 and can provide evidence that they were in the UK in July 2020 in the form of previous flight and hotel bookings. They admit that their previous visit was for tourism purposes. They claim not to have returned to the UK since due to COVID-19, but there are no reasons specific to the individual that would have prevented them returning to the UK within 12 months, during the periods when international travel to the UK has been permitted. Given that their initial period in the UK cannot properly be classed as “residence”, and they have not been prevented from returning within the last 12 months, refusal of permission to enter is likely to be appropriate.

In all cases you must give the individual the benefit of the doubt. For further details on the updated absence policy in relation to COVID-19, see the [Coronavirus \(COVID-19\) EUSS guidance](#) or, from 6 October 2021, the main EUSS guidance

### Exceptions to the requirement to grant bail or LOTR

You are **not** required to grant bail or LOTR in order for an application to be made in country when one of the following applies:

- the individual is subject to a deportation order, exclusion order or exclusion direction
- the individual has been refused admission to the UK under the EEA Regulations 2016 and has not subsequently been admitted
- the individual has been served with a removal decision under the EEA Regulations 2016, which has not subsequently been withdrawn, and they have not subsequently been admitted
- the individual has previously had an [EUSS application refused](#) (but not rejected)
- the individual previously held EUSS leave which has been cancelled, curtailed or revoked
- the individual has previously been served with a “28 Day Notice for EUSS” by Immigration Enforcement and has still not made an EUSS application
- the individual has previously been granted immigration bail or LOTR at the border for the purpose of making an in country application to the EUSS, and did not make an application

However, **you must consider each case on its own facts**, and may consider granting a period of bail to make an in-country application where there are good reasons to do so.

## Individuals previously rejected or refused under the EUSS

Applications to the EUSS will be rejected where the individual does not make a valid application, which includes not providing the required identity document. Where you encounter an individual who has previously had an EUSS application rejected as invalid, you should normally grant bail or LOTR to enable them to make a further application, provided that you are satisfied that they have presented a valid passport or national identity card.

Applications to the EUSS may be refused on either eligibility or suitability grounds. You can find the reasons for refusal on Pega.

Where an individual has had their application to the EUSS refused on suitability grounds, they will have also generally had a previous negative immigration decision such as a deportation order or refusal of admission, and where this is so (and that decision or order has not been withdrawn or revoked), you may continue to rely on this in order to refuse entry. If they have not had a previous negative decision (for example, their EUSS application was refused due to deception), you should consider the reasons for that refusal and assess their conduct against Part 9 of the Immigration Rules.

Where an individual has had their application to the EUSS refused on eligibility grounds, this is likely to mean that they provided insufficient evidence of their qualifying residence in the UK and/or of the relevant family relationship, despite attempts by UKVI to contact them to obtain this. In such cases, you are not required to grant bail or LOTR to enable a further application to be made, but you should consider the combination of their explanation for why they did not provide the necessary evidence to UKVI in combination with the evidence that they are able to



provide to you at port. If an individual can provide clear and credible evidence that they were in fact resident by 31 December 2020 as an EEA national or their family member, it is likely to be disproportionate to remove them, and therefore bail or LOTR is likely to be more appropriate.

## CID/Atlas actions when refusing permission to enter

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## Granting immigration bail to make a late application in country

Where you are granting immigration bail in order to allow an individual to make an application to the EUSS in country, you should grant bail for 28 calendar days by serving a BAIL 201 form. You may set any bail conditions that you deem appropriate, however in general the individual should **not** be entitled to work or access public funds.

**You must not retain the individual's passport or identity card, as they will need this to apply to the EUSS.**

The individual should be bailed to report back to port in 28 days' time.

You must serve the "28 Day Letter" for Border Force cases, which is available on Atlas via View Template, and will be added to the Border Casework service in July.

The notice includes asking the individual to notify you once they have applied to the EUSS by providing their Unique Application Number (UAN). Where they do so, and

you are able to verify the application on Atlas or PEGA, you should then follow the [actions after a late EUSS application is made](#) guidance.

Where the individual does not notify you of an application, you should check their details on Atlas or PEGA to identify whether an application has been made. If you locate an application, you should then follow the [actions after a late EUSS application is made](#) guidance.

## Actions when no EUSS application is made

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## Actions after a late EUSS application is made

Where an individual has previously been granted immigration bail to allow them to make a late EUSS application in-country, and they have made that application, they will have [Temporary Protection](#). **With immediate effect, you must end the bail of any individual who has been granted EUSS status, as well as any individual who has a pending valid application. Those with a pending application should also be sent an “EU temporary protected rights – Bail ended” letter, which can be generated on Atlas.** No further action in these cases is then needed.

## Joining family members arriving without entry clearance

After the grace period, there are [limited circumstances](#) in which a joining family member may be admitted to the UK without prior entry clearance. In all other cases, family members of any nationality who are seeking to join an EEA national who is settled in the UK are required to obtain entry clearance before travel. This can either be an EUSS family permit, or in some cases a joining family member may apply directly to the EUSS from overseas.

As a starting point, it will generally be reasonable to expect individuals who require entry clearance to obtain it prior to travelling to the UK.

A pending application as a joining family member does not of itself provide a basis for entry, but in certain circumstances may mean that the individual qualifies for Temporary Protection.

Where a joining family member of any nationality arrives at the border without entry clearance, you must first consider whether they qualify for entry under the Immigration Rules. In some cases, the family member may in fact not intend to settle in the UK and may instead qualify for entry as a visitor.

Where the family member does intend to settle in the UK, they should generally be refused permission to enter under paragraph 9.14.1 of the Immigration Rules. In most cases, it will be appropriate to remove the individual and require them to obtain entry clearance from overseas.

From 6 October 2021, Appendix EU to the Immigration Rules will permit individuals in the UK as visitors to apply to switch into the EUSS as a joining family member. However, this **does not** affect the provisions of the visitor rules, including the requirement that an individual seeking entry as a visitor must intend to leave the UK at the end of their visit. Where you identify an individual at the border who does not hold entry clearance (or hold or have a pending application for EUSS leave) and intends to settle in the UK as a joining family member, the visitor rules continue to apply and you **must** refuse permission to enter under paragraph 9.14.1 of the Immigration Rules.

In an individual case, you may consider that it would be disproportionate to remove the individual and require them to apply for entry clearance from overseas. Where you consider that compelling or compassionate circumstances engage the Leave Outside the Rules policy, you may grant Leave Outside the Rules. In other cases where you consider that removal would be disproportionate, you may [grant immigration bail to allow them to make a late application in country](#).

## Temporary Protection as a joining family member

A joining family member who arrives without entry clearance may, in certain circumstances, have [Temporary Protection](#) status.

**In-country**, a joining family member will be treated as having Temporary Protection status from the point that they make a valid application to the EUSS.

At the **border**, the following will apply:

- a joining family member who has a pending application to the EUSS will have Temporary Protection status **if** they hold a valid or expired EUSS family permit, EEA family permit or UK-issued EEA Regulations residence card - they will require a grant of leave at the border, unless they have a valid EUSS family permit
- a joining family member who has not yet applied to the EUSS will have Temporary Protection status **if** they hold a valid or expired EUSS family permit,

or a valid UK-issued EEA Regulations residence card - they will require a grant of leave at the border, unless they have a valid EUSS family permit - a claimed joining family member who has not yet applied to the EUSS should only be granted leave on **one** occasion to make an application in country (unless they hold a valid EUSS family permit which they can use for multiple entries until it expires)

Documents issued by the Crown Dependencies must be treated the same as those issued by the UK.

If a (claimed) joining family member does not hold one of the above documents, but you consider that there are compelling or compassionate reasons why they should be admitted, you may admit them and treat them as if they had Temporary Protection.

Where the joining family member is a child or vulnerable adult (and you are satisfied as to the relationship between them and the relevant EEA citizen), and their parent(s) or family member(s) hold EUSS leave, have a pending application or otherwise benefit from Temporary Protection, you should normally treat this as sufficiently compelling to treat the child or vulnerable adult as benefiting from Temporary Protection.

Where an individual with Temporary Protection status is encountered at the border, and they do not hold another form of leave, **they must be granted Leave Outside the Rules on a Code 1A for 3 months.**

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**You must issue the individual with an “EU temporary protected rights, LOTR granted” letter, which can be generated on Atlas..** The grant of LOTR is to facilitate their entry, and the length of their Temporary Protection status will actually depend on how long their application to the EUSS takes to determine. There is no limit to how many times an individual with Temporary Protection may be granted LOTR at the border.

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## CID/Atlas actions when refusing permission to enter

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## Bail ended explainer

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