

FAQ on loss of EU Settlement Scheme status: EUSS status granted in error / curtailed / cancelled the3million webinar 13 August 2026

On 13 August 2026 we held a webinar to discuss the ways in which the Home Office can take away pre-settled status, or Withdrawal Agreement rights, and what you can do about it.

We were joined by Mala Savjani (partner at Wilsons Solicitors) and Chris Benn (immigration expert at Seraphus) who answered many questions that had been sent in ahead of the webinar. This document summarises those questions, together with those that could not be answered within the webinar time constraints.

- Watch the webinar at: [Loss of EU Settlement Status | Q&A webinar 13 August 2026](#)

Key facts and resources

- the3million webpage explaining how the EUSS automation process works, which can result in people with pre-settled status being upgraded to settled status, having their pre-settled status extended, or receiving a 'minded to curtail' letter from the Home Office: [the3million | EUSS automation - extensions, upgrades and cancellation](#)
- the3million webpage summarising all the major changes to the EU Settlement Scheme since it first opened in 2018: [Summary of changes to the EU Settlement Scheme since 2018](#). This shows that the Home Office first published its policy on grants in error on 11 November 2025, and that it published an update on EUSS automation on 9 April 2026.
- the3million webpage containing a downloadable Excel calculator to help you work out how many months' total absence you have in the last 60 months: [Absence calculator](#)

Structure of this Q&A document

The questions in this document are arranged in the following sections:

1. Is settled (rather than pre-settled) status at risk?
2. 'Granted in error'
3. Holding pre-settled status - apply for settled status or wait?
4. Cancellation, curtailment and revocation of EUSS status
5. Pre-settled to settled upgrade applications - eligibility

1. Is settled (rather than pre-settled) status at risk?

We received a lot of questions, sent ahead of the webinar, on whether people with settled status are at risk.

1. **Q** Questions about settled status being removed by the Home Office:

- How likely is it that settled status can be removed and what possible legal ways can be used to do the same? *[Juraj]*
- Will Home Office try to revoke Settlement Status, for retired people who live in this country for over thirty years? *[Jay-Jay]*
- Can settled status be withdrawn? *[Ellen]*
- How likely is the loss of EU settlement status, and what if anything could be done to safeguard against loss of status? *[Gabriele]*
- Are there any known curtailment actions for Settled Status (not pre-settled). Will there be any similar checks for those with settled status? *[Anonymous]*
- Can the UK revoke settled status? Under what circumstances? Is there a time limitation after which settled status cannot be revoked? *[Anonymous]*
- Can uk try to take away full settled status to people that use digital logins and we're fine so far? *[Anonymous]*
- Circumstances in which settled status can be withdrawn legally. *[Anonymous]*

A Settled status carries more security than pre-settled status, and there are far fewer circumstances in which the Home Office can remove it. This is because the EU Settlement Scheme is governed by the Withdrawal Agreement: the scheme's rules, and any decision to remove a status granted under it, must comply with the limited set of circumstances the Withdrawal Agreement allows. In practice, settled status can only be removed where a person's conduct justifies it, typically criminal conduct, or where the status was obtained by fraud or deception. It can also be lost through an extended absence from the UK, which is covered separately below. Importantly, if it later emerges that settled status was granted in error, the person does not lose it. Home Office policy does not permit removal of settled status on the basis of an erroneous grant, although an error of this kind may affect the person's ability to sponsor family members, or to naturalise as a British citizen.

2. **Q** Is the full Settled Status - as opposed to pre-settled - within the scope of Home Office powers to unilaterally rescind, once granted, the way this can happen with British citizenship, for instance? Or does the fact that this is an immigration status based on international legal agreements make it inviolate? Is EU Settled Status meaningfully legally distinct from ILR? *[Maria]*

A Settled status is technically and legally a form of indefinite leave to enter or remain, which is the term used in UK law. Other people hold indefinite leave to remain through different immigration routes, such as the skilled worker route or as the family member of a British citizen, so there are several types. What distinguishes settled status is that it is granted because of the Withdrawal Agreement and is protected by it. The UK government is bound by its obligations under that agreement and cannot make changes to the EU Settlement Scheme that would contradict them.

A current example illustrates the difference. The government has been considering extending the qualifying period for settlement, referred to as earned settlement, from five years to ten (and in some cases longer). That change cannot be applied to the EU Settlement Scheme. The government could not decide to withhold settled status from pre-settled status holders until they had completed ten years of residence, because the Withdrawal Agreement provides for permanent residence rights after five years and doing so would breach it. Policy changes affecting indefinite leave to remain granted outside the EU Settlement Scheme therefore cannot simply be extended to status held under it, which is what makes it a particularly protected status.

3. **Q** As standard ILR is issued under general UK immigration rules, while settled status is specifically tied to EU withdrawal agreements. Is there any chance the Home Office may withdraw from settled status to put it together under ILR. ILR is less favourable for EU residents. *[Jay-Jay]*

A As set out in the question above, It would be a breach of the Withdrawal Agreement if the Home Office were to declare that everyone with settled status under the EU Settlement Scheme had domestic ILR instead. Therefore, almost all settled status ILR is treated as carrying Withdrawal Agreement rights which should not be changed. However, as Home Office policy currently stands, if the Home Office determines that someone's settled status has been granted in error, that settled status is effectively being changed to domestic ILR because the Withdrawal Agreement rights to sponsor family members is removed.

4. **Q** What about the rights of settled status holders who are married to British Citizens? *[Kerstin]*

A Marriage to a British citizen has no bearing on the limited grounds set out above on which settled status can be lost, and it confers no additional protection under the Withdrawal Agreement. If one of those grounds arose, for example a serious criminal offence, the person could still lose their status. The one context in which the marriage may be relevant is deportation, where it could form part of the Home Office's human rights assessment of whether a person should be removed from the UK. Beyond that, being married to a British citizen does not change a settled status holder's position.

5. **Q** At the next election is it likely that when reform comes in the government, that they can remove the indefinite leave to stay status from Europeans. *[Anonymous]*

Q Taking into consideration possible difficulties with future governments regarding settled status, would you recommend that if someone lived in the UK for over 30 years it would be better to obtain British Citizenship. *[Jay-Jay]*

Q If I have settled status and later apply and obtain UK citizenship, is my UK citizenship in risk to be curtailed or cancelled? *[Anonymous]*

A No one can say with certainty what a future government of any party will do, and concern about this is understandable given how prominent immigration has become in political debate. What can be said is that the UK has signed the Withdrawal Agreement, which is an international agreement between the UK and the EU that guarantees rights to European nationals who were resident here before Brexit took effect and their family members. Removing settled status from European nationals for reasons that fall outside the grounds set out in that Agreement would put the UK in breach of it, and a breach would carry consequences for UK and EU relations. Given the importance of that relationship, the hope and expectation is that any future government will continue to abide by the agreement.

As for whether it is better to obtain British citizenship, this is a personal decision. People should take advice to know whether this would have any impact on their existing citizenships (for example some countries do not allow dual citizenship). One significant benefit of obtaining British citizenship is that it is not lost if the holder lives outside the UK. Whereas, settled status lapses if the holder spends five years continuously outside the UK (four years for Swiss citizens and their family members). Changes to primary legislation would be required to prevent those who hold (an)other nationality(ies) from qualifying for British citizenship. Current legislation allows UK citizenship to be removed in certain, very limited, circumstances related to fraud and serious criminal offences.

6. **Q** I'm an EU citizen living in London for many years with Settled Status. I have an EU passport and definitely do not want to also have a UK passport. Can the UK Government take away, or refuse any benefits due to unemployment, etc. now or in the future? Can the UK state pension be refused/withheld even after paying into the scheme all my working life? *[Anonymous]*

A As the law stands, no. A person with settled status is treated in the same way as a British citizen for the purposes of benefit entitlement. Access to unemployment benefits depends on economic and residence factors that apply equally to British citizens, so the same tests are applied without regard to nationality. Some political parties have discussed restricting benefits to British citizens only, but such a change would breach the Withdrawal Agreement and would carry the consequences for UK and EU relations described above.

The state pension operates on a separate basis. Entitlement depends on having made the required contributions, not on nationality. Anyone with lawful immigration status who has paid in and met the qualifying conditions is entitled to draw the state pension, so holding an EU passport rather than a British one makes no difference.

7. **Q** Suppose one automatically loses EU citizenship by naturalizing in a non-EU country. This would for example be the case for Dutch or Austrian citizens. Would this then result in the loss of status under the EU Settlement Scheme since one would no longer be an EU citizen? *[Anonymous]*

A For someone who already holds settled status, no. Settled status is granted on the basis of a qualifying period of residence, usually five years, and the grant is made based on the circumstances that exist at the point of application or automatic award. If you were an EU citizen resident in the UK for that qualifying period, you met the conditions at the time the status was granted. A later change of nationality from an EU state to a non-EU state does not undo that, and settled status would not be removed on that basis.

There is one practical consideration for anyone in this position, which will be a relatively rare situation. If you intend to sponsor family members who do not yet hold status of their own, acquiring a citizenship that causes the loss of your EU nationality could affect your ability to do so. That is worth weighing up before naturalising, but it does not affect your own right to hold settled status.

8. **Q** You mentioned that a family member (with a pre-settled or settled status) of an EU Citizen who was protected by the Withdrawal Agreement, having let's say a settled status at the time, even if that EU citizen became a UK citizen it would not change the rights of the family member. What about if the EU Citizen became UK citizen and then wanted to bring the direct family member to the UK? Would they be able to do so? By acquiring the UK citizenship, did they lose their EU 'Withdrawal' agreement rights? And also, what about an EU citizen who became an UK citizen before the UK left EU? *[Jan]*

A If an EU citizen becomes a dual EU-UK citizen after exercising free movement rights in the UK, they are considered to be a 'Lounes' dual national, and they are still within scope of the Withdrawal Agreement and able to sponsor family members. This applies equally to EU citizens who became British before and after Brexit. Before applying to naturalise as British it is important to check with a qualified legal adviser that the Lounes conditions are met. If they are not and the EU citizen proceeds to become British, they will lose their right to sponsor family members, including potentially family members who wish to move from pre-settled to settled status.

However, it is necessary for joining family members to apply using a paper application form. The [Home Office website](#) states that some cohorts cannot apply online, including if you are *"the family member of a British citizen who is also a citizen of an EU country, Switzerland, Norway, Iceland or Liechtenstein, and they lived in the UK as a citizen of one of those countries before becoming a British citizen"*. The page goes on to say that you need to contact the EUSS team and request a paper application form. This can be confusing and frustrating in the case where the sponsor became a dual EU-British citizen since the family member obtained pre-settled status - because the family member would have been able to use the online application process to get pre-settled status but needs to use a paper application form to upgrade to settled status.

9. **Q** Can a family member of an EU citizen lose their settled status when said EU citizen gains UK citizenship? *[Anonymous]*

A No. The position is the same as for an EU citizen who acquires a non-EU nationality after being granted settled status. Once the qualifying period has been completed, usually five years for an adult family member, and settled status has been granted, the status has been earned and is held in the family member's own right. The EU sponsor subsequently naturalising as a British citizen has no effect on it, and the family member remains entitled to keep their settled status.

10. **Q** I sponsored my parents under EUSS, and they arrived in the UK before July 2021 when financial dependency was automatically assumed. They started living with me in the UK, at my house. Unfortunately I am going through divorce now, and I would like to support my parents financial needs including housing. My parents have EU settled status and so do I. How will financial dependency work for my parents at this stage?

A Once your parents have settled status, they have status in their own right and there are no dependency requirements.

11. **Q** We received several questions about loss of settled status following an extended absence from the UK:

- Is the maximum absence period of 5 years for people with Settled Status related to the time the person has not lived & paid taxes in the UK, or is it sufficient to visit the UK to "reset the counter"? Due to work, I had to live abroad for about 3 years and was only able to visit on a monthly basis. However, I don't live in the UK permanently at the moment. *[Julius]*
- I have settled status. If I leave the UK, but want to keep my settled status with the plan to return to the UK in the future (>20 years) - would I be able to extend my settled status just by entering the UK for a day, with less than 5 years between each visit? *[Anonymous]*
- If someone has settled status but leaves the UK for five years, can they return to the UK even if they come back just one day before their settled status is due to lapse? Once they return, how long do they need to remain in the UK to reset the period of absence, and what specific evidence should they keep to prove their return and continued residence in the UK in the future? *[Anonymous]*
- How much is too long to stay abroad? *[Anonymous]*
- For people with settled status who live momentarily outside of the UK, is there a way that we can track the 'reset' of the 5 years absence when visiting back? *[Anonymous]*
- The Withdrawal Agreement states that settled status *[note - the Withdrawal Agreement refers to the "right of permanent residence"]* is lost after a continuous absence of five years. Currently the UK government takes the position that a brief visit to the UK resets the five year absence clock for settled status even if one does not take up residence, in line with case

law on long-term resident status in the EU. Is there a risk of the UK government changing its position on this and demanding one takes up residence before the five year period lapses? [Anonymous]

- Is it possible for the UK to retroactively change the absence policy for settled status holders sometime in the future? (For example: change it so that instead of a 5-year continuous absence, it's a 2-year absence, or some such.) [Anonymous]
- People living abroad with EU permanent resident status, I understand that they are allowed to spend five consecutive years outside the UK. But my question is: how long do they have to be back in the UK before the count starts again from zero? [Anonymous]
- I have a settled status more than 5 years (I'm not interested to get a British passport), and I have a question/s: 1. if I'm out of UK for a year or 2 - am I going to lose my SS? 2. And how long can I be out of UK? As on sabbatical / backpacker worldwide.

A Settled status holders and those with pre-settled status who have acquired permanent residence have the right under the Withdrawal Agreement to be absent from the UK for up to five years continuously. Status is only lost once that continuous five-year period has elapsed. This is a generous allowance, so absences of one or two years make no difference: if you spend two years abroad and then return, you keep your settled status. The reason for the absence is irrelevant and so whether you are on sabbatical, travelling, or simply living elsewhere for a period, there is no requirement to justify it, provided you return before the five years are up.

On resetting the clock, a short return to the UK is sufficient. If you are living abroad and come back for a few days before the end of the five-year period, that resets the clock and a fresh five-year allowance begins. The Home Office confirms this position on the gov.uk website - at <https://www.gov.uk/settled-status-eu-citizens-families/what-settled-and-presettled-status-means> which says *"You can spend up to 5 years in a row outside the UK, the Channel Islands or the Isle of Man without losing your status. If you enter the UK for any amount of time during that 5 years, you'll then be able to spend up to 5 more years outside the UK."*

There is also a decision of the EU courts which, although not concerned with the Withdrawal Agreement itself, sets out principles we consider would apply to it. (See [Case C-432/20](#) which concludes *"any physical presence of a long-term resident in the territory of the European Union during a period of 12 consecutive months, even if such a presence does not exceed, during that period, a total duration of only a few days, is sufficient to prevent the loss, by that resident, of his or her right to long-term resident status under that provision."*

As to whether the Home Office might change this position, that seems unlikely. It is their stated policy on their own website, and any change would be open to legal challenge given that the Withdrawal Agreement wording is a single, clear sentence: permanent residence status is retained provided the person does not spend more than five years outside the host state.

One important variation: for Swiss citizens and their family members, the permitted period of absence is four years rather than five, as Switzerland negotiated slightly different terms.

12. **Q** While on Pre-Settled Status I applied for Settled Status. My application was rejected and I submitted an Admin Review. The Admin Review period was taking many years and the outcome was too uncertain and so to protect my rights I moved to a 5-year Skilled Worker visa. However while on the Skilled Worker visa, my Admin Review was approved and I was switched to Settled Status. I had thought that in moving from Pre-Settled Status to the Skilled Worker visa, I was abandoning my rights under the EUSS - I had thought they would cancel my Admin Review. I was surprised that my Admin Review was reviewed and that I got moved to Settled Status. My question is: Was this switch from Skilled Worker visa to Settled Status legal, or was it an error on their part? I am currently applying for citizenship and am terrified they will look back and take away my Settled Status. [Anonymous]

A The Home Office previously did treat EUSS status as lost if a person acquired a non-EUSS immigration status. However, this position breached the Withdrawal Agreement and so the Home Office now confirms in [guidance](#) that EU citizens and their family members with EUSS pre-settled status acquire another immigration status, they do not lose their EUSS rights. This policy applies retrospectively so it does not matter when the non-EUSS immigration status was acquired if pre-settled status was held first.

See also the [EUSS caseworker guidance](#) which says for example on page 69: “Where an EU, other EEA or Swiss citizen, or their family member (including a joining family member or a family member who has retained the right of residence by virtue of a relationship with them), who has extant pre-settled status under the EU Settlement Scheme obtains leave to enter or remain under another part of the Immigration Rules (or outside the rules), that person will retain their pre-settled status alongside the other immigration leave.”

This means there is no error if a pre-settled status holder also holds another UK immigration status before moving to settled status and so would not impact on qualifying for British citizenship.

13. **Q** If I have settled status, can I move to Gibraltar on the basis of that status? [Anonymous]

A Gibraltar operates its own separate residency laws, and UK-issued immigration status, including settled status (or pre-settled status), cannot be used as a basis for residing there. Anyone wishing to move to Gibraltar would need to meet its own residency requirements. This falls outside our area of expertise, so specific advice on Gibraltar's immigration rules should be sought from a qualified adviser.

2. 'Granted in error'

We received some questions about situations where people only received confirmation of their EU citizenship after the 'specified date' of 31 December 2020.

14. **Q** If the person was living in the UK legally or illegally before Brexit and received their EU citizenship after the specified date, was his pre-settled/settled status issued in error and why? He applied for his EU citizenship before the specified date, about 1-3 years prior to being granted the citizenship, which was after the specified date. Since he was issued the citizenship, could it be used to argue the Home Office about his status in the UK? What is the best course of action for anyone, whose status was taken away? *[Anonymous]*

A The wording of this question highlights the difficulty. Where someone "applies" for EU citizenship before 31 December 2020 but only receives confirmation after that date, the answer depends on the nationality law of the country concerned and on the route by which citizenship was acquired. The key point for the EUSS is that EU citizenship was held by 31 December 2020, even if confirmation of this citizenship (for example a first EU passport) was issued after this date.

An analogy with British nationality law illustrates the point. A person can be automatically British from birth or they can apply to register as British, or naturalise as British. If they naturalise, they become British once their application is approved. In other words, becoming British is different from automatically being born British. Other countries operate comparable distinctions. The key question is therefore whether the nationality was held from birth, or whether it took effect only, for example, on the date of application or the date of the decision. In many cases the person will hold documentation confirming which of these applies to them. There is no generic answer, and the outcome turns on the specific facts of how the nationality was obtained.

Where the Home Office does take the view that status was granted in error because they say an EUSS status holder was not an EU citizen by 31 December 2020, expert evidence is important. A lawyer with expertise in the nationality law of the relevant country can produce evidence, such as an expert report, demonstrating that the person in fact held that nationality by 31 December 2020. Evidence of this kind can be persuasive to the Home Office directly, and it is equally important if the matter progresses to a pre-action letter and ultimately to court or tribunal, where it carries considerable weight before a judge.

15. **Q** Given the current "in error" reviews, are you aware of how the Home Office is treating applicants whose citizenship-by-descent was judicially confirmed after 31 December 2020, where the judgment expressly declares citizenship from birth? Is the declaratory nature of such judgments being accepted in practice? Would you advise applying for settled status now (with the court judgment attached), or waiting for the outcome of a challenge to this policy? *[Federico]*

A It is difficult to give a firm answer, because Home Office decision-making in these cases is markedly inconsistent. Some individuals in exactly these circumstances are being told, when they come to apply for settled status, that their pre-settled status was granted in error and will be allowed to expire. Others with the same type of nationality claim are simply being granted status. The most useful step is likely to be obtaining expert evidence confirming that the nationality was held from birth*, as this tends to be persuasive to the Home Office.

* Note that in cases where nationality was not held from birth, what needs to be evidenced is that the nationality was held on or before 31 December 2020.

On timing of an EUSS application, the position is very fact-specific. People should seek legal advice on their position which can include an assessment of how persuasive their nationality evidence is.

16. **Q** Can we expect the IMA to challenge the Home Office regarding the Grant in Error policy? And what could this mean to the people affected? I'd also like to ask if we should report a complaint through the IMA portal if our case has already been reported to the3million. *[Henrique]*

A That is a question for the IMA to answer. the3million is now intending to bring a legal challenge to the Home Office policy - see [here](#) for more details. The IMA at times applies to "intervene" in legal cases that other organisations bring. The IMA have issued [a statement on the expiry of status granted in error](#), which raises concerns that the Home Office policy may be incompatible with the Withdrawal Agreement. Their statement includes that they are keen to understand the nature of the 'errors' identified under the policy, so we would highly recommend that you also submit a complaint through the IMA portal even if you have already reported this to the3million.

17. **Q** Would there be any point in bringing class action against the respective UK government at the time. Are EU Governments aware of the risk and do they indicate any leverage on the subject or a plan for compensating SSt holders if the UK Government cuts them off. *[Kerstin]*

A The UK does not have class actions as such, although there are 'Group Litigation Orders' for multiple civil claims. In this case it is more appropriate for a claimant to bring a Judicial Review to challenge the legality of the Home Office 'grant in error' policy as a whole. The aim is that if the Judicial Review is successful, anyone impacted by the policy will be in a better situation in the sense that the Home Office would need to make a proportionality assessment before deciding that someone does not have Withdrawal Agreement rights, and grant a direct right of appeal to that decision. We do not know if EU Governments are aware of the risk or have leverage, but the EU Commission is aware. The EU Commission has raised this at the EU-UK Specialised Committee on Citizens' Rights - see the [joint statement of the last meeting in May 2026](#) which includes: "The EU reiterated the concerns about [...] access to proper appeal rights for EU citizens whom the UK authorities consider were originally granted their residence status in error".

18. **Q** When you sent a pre-action protocol letter to challenge the decision not to extend pre-settled status, what was the outcome? *[Anonymous]*

A In some cases the decision not to extend pre-settled status was reversed, in other cases the Home Office maintained its decision not to extend (i.e. they maintain the EUSS status was granted in error). It is not possible to give a general answer, as the cases are very fact specific, and we would recommend seeking legal advice. If you want to speak to Wilson Solicitors their contact details are [here](#).

19. **Q** The Home Office have said that they will review EUSS status in certain cases where they believe that EUSS status was granted due to some caseworker error. How does this tally with the general rule that Home Office error should not lead to adverse consequences? *[Anonymous]*

A We are not aware of such a general rule that binds the Home Office in this way. However as the3million considers the whole grant in error policy both very unfair and potentially in breach of the Withdrawal Agreement, we are hoping to bring a legal challenge if we get [sufficient support](#).

20. **Q** Some decisions not to extend pre-settled status were issued months ago. Can I check whether there's a time bar to respond with a pre-action protocol letter? *[Anonymous]*

A The rules say that a judicial review (JR) must be filed promptly and no later than three months (although time can be extended by the court if there is good reason for a delay). When filing a JR within the time limit, it is important to factor in the time required for sending the Pre-Action Protocol (PAP) letter to the Home Office, and receiving the response. The respondent typically has 14 days to respond to a PAP letter. In practice therefore, it is recommended to send a PAP letter within the first month or six weeks of the Home Office decision not to extend pre-settled status. You should then lodge the judicial review claim no later than three months from the date of the decision.

21. **Q** Last year, when I applied to upgrade from pre-settled status to settled status, the application was refused, and I was told my pre-settled status was granted in error and wouldn't be extended. My status expires next month. I appealed the refusal – will the appeal continue to protect my rights once my status expires? *[Anonymous]*

A Unfortunately, when someone receives a refusal decision **before** their current immigration status has expired, any appeal of that refusal does not fall within the scope of so-called '3C leave' that usually protects people while they wait for the outcome of an appeal.

The way to get '3C leave' protection while waiting for the outcome of the appeal, is if the application is made **before** the pre-settled status has expired but the application is refused **after** its expiry, and that refusal is then appealed in time.

So, to protect your rights you should:

1. **Submit a fresh application for settled status shortly before the expiry of your pre-settled status, in the hope that the application is refused after your pre-settled status has expired. It is therefore best to do this quite close to the expiry date, for example, a few days before.**
2. **Appeal the refusal of this second application - even though you already have an appeal outstanding against the refusal of your previous application. Your '3C leave' protection will attach to this second appeal.**

A few very important points:

- **It is extremely important not to wait until your pre-settled status has already expired**, because the protection of '3C leave' will not work, and the Home Office may then treat your application as a late application and could reject it for not being a valid application. A rejection decision (rather than a refusal decision) does not come with a right of appeal. The [EUSS Caseworker Guidance](#) says about late applications in this situation: *"A person will not generally be able to satisfy you that there are reasonable grounds for their delay in making their application where they held pre-settled status and, on making an application for settled status, were informed as part of the refusal of that application that their pre-settled status was granted in error, as they will have already had a right of appeal against that decision."*
- **We would recommend that, if possible, you get legal advice to help you submit your fresh application.** This is because if you were to make any small mistake in submitting your application, the Home Office might **reject** your application as invalid. This is not the same as **refusing** your application and does not come with a right of appeal. If you had submitted the application close to the expiry date, as recommended above, the Home Office rejection would likely come after your pre-settled status expiry and put you into the position of being a late applicant. As set out in the bullet point above, this means you can no longer get '3C leave' protection.
- **It is extremely important that you submit your appeal (of your second application) in time.** However, if you do miss the deadline to appeal, and you submit the appeal after the deadline, a judge can consider whether or not to 'extend time'. If the judge agrees to extend time, this would resurrect '3C leave' protection from the date you lodged your out of time appeal. However, your continuous lawful residence would be broken for the period between the deadline to submit the appeal and the date on which you lodged the late appeal.
- **Do not travel out of the UK once your pre-settled status expiry date has passed.** This is very important - as leaving the UK would mean you lose any '3C leave' protection.
 - If your expiry date has passed but you have not yet received the refusal of your second application, then leaving the UK results in the Home Office withdrawing your second application. Your existing appeal (against the refusal of your first application) will still be pending so if you are ultimately successful you would get your EUSS status back, but you would have no lawful status in the UK while waiting for the appeal to be heard, and you would not be able to re-enter the UK without obtaining alternative permission to enter from the Home Office.
 - If you have received the refusal of your second application and appealed it, then leaving the UK results in the loss of your '3C leave' protection. Both your appeals would still be pending, but you would have no lawful status in the UK while waiting for the appeal to

be heard, and you would not be able to re-enter the UK without obtaining alternative permission to enter from the Home Office.

The complexity described above to try to protect your rights while you challenge the Home Office refusal is why we need to challenge the whole ‘grant in error’ policy. If our [legal challenge](#) succeeds, the situation legally becomes more straightforward. In every case the Home Office would need to either extend pre-settled status, or remove it via a curtailment process that is compliant with the Withdrawal Agreement. This means if someone appeals a decision to curtail their status, their rights in the UK, including the right to travel, would remain fully protected until there is a final outcome of the appeal.

22. **Q** There is a massive difference between having a caseworker or two who have made a mistake whilst considering a case to the hundreds of people who had their cases considered granted in error. It was simply the procedure at the time. The Home Office consistently considered those applications the same way. They are also completely refusing to accept Italian legislation which states a person was born Italian even though they did not hold a passport until after Brexit. You could have a British national who was born British but they are not less British because they don’t hold a British passport. Most of my clients are European nationals and this is getting very frustrating. What to do with granted in error cases when they have a new child born into the family? The sponsors are told that they are not allowed to sponsor the baby and by doing that, we have a child with no status and parents with say pre-settled status. *[Patricia]*

A We completely agree with you. We would recommend getting in touch with Mala Savjani at Wilson Solicitors, to discuss whether you are able to support our legal challenge through, for example, a witness statement about your experience of your clients.

23. **Q** Is there any pattern that tells us the cohort most affected? *[Niamh]*

A We are broadly seeing a pattern of three main cohorts, though this does not cover all cases.

- Firstly, there are those where the Home Office disputes that someone was an EEA national by 31 December 2020, because they got affirmation of that EEA nationality after that date. Whereas the Home Office was happy to accept this as retrospective proof of EEA citizenship as at 31 December 2020 when originally granting pre-settled status, they are now taking a different approach.
- Secondly, there are those who were granted pre-settled status as a durable partner or extended family member despite the applicant not having the required relevant document (an EEA Family Permit or EEA residence card). It is no longer possible to obtain these documents retrospectively.
- Thirdly, there are those who were granted pre-settled status on the basis of having arrived in the UK by 31 December 2020, but where the Home Office is now saying there is insufficient evidence that they did arrive by 31 December 2020.

The Home Office allegation that someone's status was granted in error comes to light mainly when people with pre-settled status apply to upgrade to settled status, or when a joining family member makes an application to the EU Settlement Scheme (either a first application, or an upgrade application).

24. **Q** I should like more info about the difficulties with & threats about pre-settled status & its withdrawal are being 'racialised'. Specifically whether anyone has looked into the algorithm being used by Home Office staff to identify those they go on to 'threaten'. When the huge scandal finally about thousands of parents being wrongly accused of Child Benefit fraud blew up in the Netherlands, it turned out that the algorithm the Dutch income tax staff were using was itself fundamentally racist. Is a similar thing happening here? *[Ann]*

A This is difficult to comment on. We cannot rule it out. Most 'grant in error' cases we see are triggered by an application to the EUSS, either an application to upgrade from pre-settled to settled status, or an application by a joining family member. However, some cases do not appear to have an obvious trigger, and we do not know how those people were identified.

Our first cohort described in the previous answer turns on citizenship by descent, disproportionately from Latin America in the cases reported to us. Our second cohort described above involves durable partners and dependent relatives said to have lacked EEA documentation - a requirement that applied only to non-EEA nationals.

Both of these cohorts involve distinctions drawn on nationality or national origin. Whether the policy's overall effect is racially disproportionate, we cannot say. Nothing has been published about how cases are identified. The criteria themselves weren't published until November 2025, and the IMA has asked the Home Office to explain the range of cases involved.

25. **Q** Is it lawful for the UK to revoke status granted under the withdrawal agreement for a reason not specifically outlined in the withdrawal agreement itself? If no, what can the EU do to enforce this or what can we do to prevent the UK from revoking status granted under the withdrawal agreement for a reason not specifically outlined in the agreement? *[Anonymous]*

A We argue that it is not lawful for the UK to remove status granted under the Withdrawal Agreement without following the safeguards that are set out in the Withdrawal Agreement. The Home Office argument is that in the cases where status was granted in error, the status holder was never in scope of the Withdrawal Agreement and therefore these protections do not apply. We say that the process of establishing whether or not someone - once granted status - was in scope of the Withdrawal Agreement or not must be subject to Withdrawal Agreement procedural safeguards, including a proportionality assessment and a right of appeal. We consider that those procedural safeguards are there precisely to make sure that status is never taken away from a Withdrawal Agreement beneficiary, and it cannot be simply asserted that someone is not a Withdrawal Agreement beneficiary without those safeguards (to do so circumvents the very reason the safeguards exist; because the Home Office, as we have seen many times, makes errors when it asserts an EUSS status has been granted in error).

3. Holding pre-settled status - apply for settled status or wait?

26. **Q** By October, I will have reached a total of 30 months of residence in the UK over the past five years to switch to settle status. I was planning to wait until January 2027, but I am now concerned about potential new policy updates. Given that I have frequently traveled back and forth between the UK and my EU country of origin, I was wondering if it might be worth applying sooner—citing humanitarian grounds (my elderly mother is very ill and alone in my EU country or origin)—to avoid any possible regulatory changes. I have paid HMRC 6 years volunteering contribution and I have a total of 15 years. My pre-settle status extension will expire in 2030. *[Anonymous]*

A It is not possible to apply before the qualifying conditions are met, whatever the reasons for wanting to do so. An application must demonstrate 30 months of UK residence within the last five years of residence. An application made at, say, four years and six months of UK residence would not succeed even where there are strong compassionate reasons, such as needing to care for an unwell relative abroad. Compelling circumstances do not create an exception to the residence requirement.

On timing, you become eligible on the day you meet the qualifying conditions and are entitled to apply from that point. There can nonetheless be some sense in waiting a little longer if the residence evidence for some of the qualifying period is weak. If you will reach 30 months in October but cannot evidence all of that UK residence well, and you are remaining in the UK, a few further months may allow you to build a stronger case. It is advisable to apply once the conditions are met even though it is possible to wait based on the pre-settled status expiring in 2030.

The opposite consideration also applies. The 30 months must fall within the most recent five years working back from the date of application. So time spent outside the UK can cause earlier periods of residence to drop out of the qualifying window. Someone who meets the threshold today but intends to spend considerable time abroad in the next few months may lose qualifying time from the beginning of the five-year residence window. This can result in them no longer meeting the requirements, so delaying is not always the safer option.

Anyone on the borderline should consider taking advice from a qualified adviser, who can assess whether the available evidence is likely to be sufficient. the3million also has a very useful calculator on its website, which allows you to enter your dates of residence and absence and will show whether you currently qualify or if not now, when you are likely to. This is particularly helpful for anyone who has only just reached the 30 months or expects to qualify shortly. See <https://the3million.org.uk/absence-calculator>.

27. **Q** When a friend completed their pre-settled status application they were not in the UK nor had they been there in 2020, but they submitted their rental contract and university acceptance in their application for pre-settled status, which was enough proof for the Home Office. The university

course was meant to start in-person in September 2020 but due to COVID the course was online and they stayed in the EU. They eventually moved to the UK in March 2021. Now that it has been over 5 years, they would like to apply to settled status but they request the Date of Entry. What should they write? Should they write their date of entry in March 2021? Can they lose their pre-settled status if the Home Office noticed that they entered after December 2020? Would it be better if they stay on pre-settled status? *[Anonymous]*

Q I am an EU national currently holding pre-settled status in the UK, valid until January 2031. I am on track to complete my 5 years of continuous residence soon and plan to apply for settled status. During my EUSS application, I encountered a question asking whether I started living in the UK before 31 December 2020. In my case, I did not begin residing in the UK before this date. I would like to provide context for this: in late December 2020, my family (including my young children) and I had a confirmed flight to the UK. We had already cleared immigration and were preparing to board when we observed other passengers with children cancelling their travel plans due to safety and health concerns. After careful consideration, we decided as a family to postpone our travel to prioritize our children's well-being. Subsequently, the country where I was residing at the time imposed a one-week travel ban on all citizens and residents, preventing us from making alternative travel arrangements. Although the ban was lifted after a week, it remained in effect for destinations where new COVID-19 strains had been detected, including the UK. Despite this, I proceeded to apply for the EUSS before 31 December 2020, submitting the following evidence to demonstrate my intention to reside in the UK: Proof of Address, Flight Tickets Boarding Passes (including those for my children), Immigration Exit Stamps, and Passenger Locator Form. The Home Office granted me pre-settled status in January 2021. I physically moved to the UK a few months later and have been continuously residing here since. Specifically, I am concerned about how my travel postponement, and the subsequent travel ban might impact my eligibility for settled status, given that I did not start living in the UK before 31 December 2020. *[Anonymous]*

A Both these cases are complicated as they could fall within the Home Office error policy due to the UK arrival date being after 31 December 2020. We would recommend seeking qualified legal advice before submitting an application to the Home Office.

4. Cancellation, curtailment and revocation of EUSS status

28. **Q** Do you know when this process of cancelling and curtailing pre-settled status started? It was in May? Just to have an idea of how much time I have. [Laia]

A The Home Office [announced phase 3 of its automation process](#), which includes consideration of whether someone's status should be cancelled or curtailed due to extended absences from the UK, on 9 April 2026. We set out the details of the process on our website at [EUSS automation - extensions, upgrades and cancellation](#). The process examines the pre-settled status of people whose status is due to expire within six weeks (although we know there have been some issues meaning that in some cases the automation process was notifying people much closer to their expiry date, and in some cases, people's status incorrectly expired).

It is therefore not possible to answer your question about how much time you have, as this depends on your individual circumstances and the expiry date currently shown on your pre-settled status.

29. **Q** What are the criteria for curtailment selection (e.g. consecutive years of absences, expiry date, etc) and how are they ranked in order of importance? [Andrea]

A As far as we understand from a [Home Office letter sent to the3million on 4 June 2026](#), the process considers those pre-settled status cases that are due to expire within the next six weeks. Home Office "bulk runs" cases "against Home Office travel data" without specifying the details of this process. They say they "prioritise reviewing the status of those who have been outside the UK for the longest periods of time." Children under 18, sponsored family members of any nationality, and those who received pre-settled status under 'derivative rights' eligibility criteria are not considered for curtailment or cancellation based on excessive absences from the UK. However if someone's sponsor has their status cancelled or curtailed, the Home Office is likely to examine the status of any family members they have sponsored.

30. **Q** Can you remain on Pre-Settled status indefinitely as long as you are physically present for one calendar day every two years? Meaning just never convert to Settled Status, but be physically present for 1 calendar day every two years such that the UK Home Office cannot revoke Pre-Settled Status? [Anonymous]

A No, this is misunderstanding the requirement to continue to meet the EUSS eligibility conditions. Now that the Home Office curtailment and cancellation process looks at pre-settled status holders with long absences from the UK, it is likely that someone who had only visited the UK for one day every few years would receive a minded to curtail notice when they approach the next expiry date of their pre-settled status.

31. **Q** What is the probability of cancelling PSS at the border due to long absence grounds? And how will they give the right of appeal? Will you be landed or turned away? *[Anonymous]*

A Border Force has specific guidance about how to approach situations where EUSS status holders are identified as having long absences from the UK. The guidance is complicated to read but to summarise, pre-settled status holders who are identified as having long absences from the UK should be permitted to enter the UK whilst Border Force refers their case to an in-country Home Office team (called the Status Review Unit or SRU), to consider whether the pre-settled status has been lost or should be curtailed due to excessive absences from the UK. There is no published Home Office data on how often Border Force make such a referral to the SRU. Our stakeholder engagement with EUSS advice organisations does not indicate this is a common occurrence.

32. **Q** If my status is revoked, and I am outside the UK at the time, what recourse do I have to get my status reinstated? Both for presettled and settled status. Is the burden of proof for the revocation of status on the UK or on the individual person who holds the status? (ie are you innocent until proven guilty or guilty until you prove your innocence?) *[Anonymous]*

A Any decision to remove status, whether by curtailment, cancellation, or revocation (the last of which is used far more narrowly), carries a right of appeal. The Home Office will first set out its position to you and you have the opportunity to respond and explain why the decision is wrong in your case. That response may be sufficient for the Home Office not to proceed to remove status. If it does proceed and removes your status, you can appeal to an independent tribunal, which will consider whether the decision was correct.

On the burden of proof, the position is not entirely clear at present. In practical terms, the initial burden sits with the Home Office: if it wants to take status removal action, it must set out why it says you no longer qualify for EUSS status. You can then respond to that case to argue why you should retain your status. Where possible you should provide evidence to address the issue(s) raised by the Home Office. If the Home Office removes your status and you appeal against this decision, a judge weighs whether the Home Office was correct or whether you have successfully rebutted its position.

If the appeal succeeds, you keep your status. Depending on the case, it will either be reinstated where it has already been lost, or, where status has been retained throughout the appeal process, the appeal will simply confirm that you continue to hold it.

33. **Q** Appeal procedure - would there be any if their rights are taken away? How would people who are asked to leave get access to pensions due to them? Would there be notice periods to handle their affairs? *[Kerstin]*

A As above, where the Home Office is considering removing status by curtailment, cancellation, or revocation, you first have the opportunity to respond and to explain why that should not happen in your case. If the Home Office proceeds to remove status, you have a right of appeal.

The distinction between curtailment and cancellation decisions is simply about where the person is at the time the decision is taken. Cancellation decisions are made where the person is outside the UK; curtailment decisions where they are inside it. The effect is the same in that the Home Office is removing status, but the label affects how the appeal process works. Following a cancellation decision made while you are outside the UK, you have 28 days to submit an appeal. Following a curtailment decision made while you are in the UK, you have 14 days to submit an appeal. These deadlines matter a great deal, as the tribunal applies them strictly. An out-of-time appeal may be accepted by the tribunal, but only where very good reasons are presented.

The two decisions also differ in their immediate effect. If you receive a curtailment decision while in the UK and you appeal, you will retain your pre-settled status throughout the appeal process and can continue living here while it is determined. If you receive a cancellation decision while outside the UK, you lose your pre-settled status immediately, even if you appeal, and it is only reinstated if the appeal succeeds. That is a far more difficult position, because you have no status with which to enter the UK to deal with your affairs in the meantime. The Home Office has indicated that someone who is only temporarily outside the UK should receive a curtailment rather than a cancellation decision, if this affects you then in the first instance you should contact the Home Office Resolution Centre (but may need to take legal advice if the Resolution Centre is unable to assist). Anyone who receives a cancellation decision and needs to come back to the UK to organise their affairs should take legal advice, as they will have no immediate permission to enter or travel.

One practical point: because of the limited timeframe to submit the appeal, it may be necessary to lodge the appeal first and find a lawyer afterwards. Getting the appeal into the system within the deadline is what matters. Appealing against a curtailment or cancellation decision does not require you to set out legal arguments; you simply need to tell the immigration tribunal that you wish to appeal the Home Office decision. Once the appeal has been acknowledged, you can look for representation. Appeals also take a considerable time to be heard, typically a minimum of six to twelve months, so there is time to find a lawyer after lodging.

Access to pensions is separate from whether a person can keep their EUSS status, as any state pension contributions made in the UK are protected by the Withdrawal Agreement. Therefore, in a situation where a person loses their EUSS status they will still be entitled to access their UK state pension contributions once they reach pensionable age, even if they no longer reside in the UK. You can read more about state pensions under Withdrawal Agreement in [this leaflet](#).

34. Q Under the new PSS curtailment/cancellation policy, how are periods of presence and absences calculated? In July, I was on a summer holiday for 14 days outside the UK. The remaining 17 days of the month I spent in the UK. As I spent more than half of the month in the UK, will the Home Office's border data checks count the month of July as a full month within the continuous qualifying period? [Andrea]

A The answer is the same whether it's in the context of curtailment / cancellation, or eligibility for settled status.

The requirement of 30 months of residence within a 60-month period refers to the number of days spent physically in the UK. Every day present in the UK counts towards the 30 months. In effect,

provided you are physically present in the UK for more than half of the five-year period, you meet the threshold. It is not a rule requiring 30 consecutive months of residence, nor one satisfied by a single day of presence in each month. The total time in the UK must add up to 30 months. Since people rarely spend whole calendar months either entirely in or entirely out of the country, the calculation can become complicated.

In practice, the Home Office does not ask applicants to evidence every individual day of presence. Where someone is employed and paying National Insurance through PAYE, HMRC confirms those contributions to the Home Office, which treats a month of where a National Insurance contribution is made as a month of residence. As this can include a month in which the applicant was on holiday abroad for two weeks, you can see that the way the Home Office assesses evidence does not map precisely on the number of days a person is present. But that is not something applicants are responsible for as this is how the Home Office has designed the system.

Travel data is also relevant. The Home Office will look at travel records, which can give it a clearer picture of when a person was in the UK and when they were not. As noted in the session, travel data is not always accurate, but where records exist the Home Office will cross-reference them against the documents submitted with an application. It therefore forms one of the pieces of evidence considered in assessing whether the 30 months of residence has been met.

When advising on what to submit, the position we take is that you need to show you were present for at least 30 months. The gov.uk guidance on residence evidence sets out the types of document that can be provided with an application, and a lawyer can talk you through it. The key point is that you are not required to prove your presence on every single day. The standard of proof is the balance of probabilities, which is not a high threshold for showing that you meet the conditions for a grant of settled status.

5. Pre-settled to settled upgrade applications - eligibility

35. **Q** What evidence of residence is it best to submit? Is it important to be registered as the person who pays the Council Tax on your property (rather than your partner)? *[Anonymous]*

Q I've been granted a 5-year extension to my pre-settled status. I want to apply for settled status and have 30 months of UK payslips, but the Home Office border records do not show that I was in the UK for part of the qualifying period. What should I do, and what other evidence can I use to prove my continuous residence? *[Anonymous]*

A The Home Office publishes examples of accepted evidence on their website at <https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence> which includes "All the documents you submit as evidence of your UK residence must be dated and have your name on them.". If you struggle to obtain the required evidence, seek legal advice to help you with your

application - see our website <https://the3million.org.uk/useful-links> for suggested advisors. The evidence you submit with your application needs to correspond with the period of residence you are relying on.

36. **Q** My pre-settled status expires in two weeks time and I have not received any communication from HO regarding its extension or lack thereof (two years ago my status was extended for two years instead of five years). Is there anything I might or should do about it? Also, since my absence history from the UK is somehow not set in stone (I submitted a SAR request and the result is not clear), I would rather apply under the 30/60 rule rather than the pre-existing scheme. Is it true that even people whose pre-settled status has lapsed can still apply under the 30/60 rule (unless they are removed from the UK before reaching that stage)? *[Vince]*

A Although the Home Office says they will contact people six weeks before their pre-settled status expiry dates, we know that they have had issues meaning people have been contacted much later, and therefore much closer to their expiry date. Please contact the3million if you do not hear anything from the Home Office and your status is not extended by the time you are within a few days of your pre-settled status expiry. There have been instances where people have been incorrectly excluded from the automation process altogether. Both caseworkers examining manual applications for upgrades to settled status, and the new automation process, will now use the 30/60 rule by default. However in some cases people will need to be considered under the old rules if for example they are relying on a historical five-year residence period rather than the most recent five years. It is true that people whose pre-settled status would have been considered to have lapsed can apply under the 30/60 rule. The Home Office has confirmed this explicitly in its [statement of 9 April 2026](#), where they state: *"The rules for continuous residence have been simplified so a pre-settled status holder can be granted settled status if they have been resident in the UK for at least 30 months in total in the most recent 60-month period, including those whose leave was previously considered to have lapsed."*

37. **Q** During the webinar it was mentioned that some travel data might be affected if not properly recorded. Is there a way to check the travel data held by the government before making an application? Would it be a SAR? *[Anonymous]*

A Yes it is possible to submit a Subject Access Request (SAR), we have some tips on how to do this on our website at [How to make a Subject Access Request \(SAR\) to obtain a copy of your Home Office records](#).

38. **Q** I have completed 30 months but this year I have had many absences due to my required attendance for a property legal issue in my home country. I arrived in the UK under a family visa in October 21 and I was granted pre-settled status in April 22. *[Anonymous]*

A Firstly, people can only apply to upgrade from pre-settled status to settled status when they have lived in the UK for at least five years on the basis on which they were granted pre-settled status.

So a joining family member who arrived in the UK in October 2021 cannot apply for settled status before October 2026, even if they have completed 30 months of residence. Secondly, the requirement to have been in the UK for 30 months out of the last 60 months must hold as at the date of application. So it is possible for someone to satisfy the 30/60 requirement on a particular date, but then no longer satisfy it some months later if they drop below the 30 months of residence. This is when someone is currently outside the UK and older months of UK residence ‘drop off’ as the 60 month window moves. We recommend you use our [absence calculator](#) to check.

39. **Q** I arrived in October 2021. I got my EUSS presettlement visa in April 2022. I will be eligible to apply for settlement status after October 2026. I am concerned as my son and daughter in law who is my sponsor lost their jobs. They are now building their careers. As my sponsor who does not have a job, will I be able to get the settlement status? Also I also couldn't find any work in UK, I have my business in my home country and also visit my home country keeping in mind about the 180 days rule and also I have completed 30 months. What are the chances of getting my settlement visa in this scenario? My family are all settled in the UK and my wife is also on EUSS and she is now eligible for applying but she has still not applied due to the same issue and she has got her extension of presettlement visa for another 5 yrs. *[Anonymous]*

A Firstly, it does not matter whether your sponsor is working or not. Once you obtained pre-settled status, you do not need to prove that you maintained your dependency on your sponsor. If you have been resident for 30 months out of the last 60 months, and it is at least 5 years since you entered the UK, and since you were granted pre-settled status, then you are eligible for settled status. You can check your residence with [the3million's absence calculator](#).

40. **Q** If a mother was granted pre-settled status under the EU Settlement Scheme on the basis of being reunited with her minor daughter, what happens when the mother becomes eligible to apply for settled status but, by that time, her daughter has reached adulthood? What would the mother need to do in order to obtain settled status? Would the fact that her daughter is now over 18 affect her eligibility, even though the daughter was a minor when the mother was originally granted pre-settled status? If the Home Office refuses her application to switch from pre-settled status to settled status, what immigration route should she follow in order to remain lawfully in the UK? What application or process would she need to undertake, and what options would be available to her following a refusal? *[Anonymous]*

A This situation is complicated as it appears to fall under a “derivative rights” category given the sponsor for the pre-settled status was a minor child. It is likely to be necessary to speak to a legal adviser about the conditions to move from pre-settled to settled status.

41. **Q** The EUSS Border Force Guidance states under the heading grounds for cancellations

"An individual does not cease to meet the requirements of Appendix EU if they cease to meet the eligibility requirements under which they were granted pre-settled status, but instead now meet

alternative eligibility requirements (for example, an individual granted pre-settled status as a family member who now has a retained right of residence)"

A non-EEA spouse did not maintain continuity of residence even under 30/60 rule, but the marriage is intact and the EU sponsor has settled status. Can we say, this individual did not cease to meet the eligibility requirements yet? What problems he may face at the UK border? [Anonymous]

A Without knowing more specific facts, it sounds as though the spouse did cease to continue to meet the residence eligibility requirements in this case. However, it may be possible for the spouse to become eligible for settled status again if they reach a point where they have been resident in the UK for 30 months out of the previous 60 months. Alternatively they may be able to apply for a new grant of pre-settled status as a joining family member, but would then need to wait for five years (and maintain both continuous residence and their marriage) before becoming eligible for settled status. It is hard to comment on the practice at the UK border given there are millions of border entries per year, the majority of which will not raise any issues. The Border Force guidance gives powers to immigration officers to examine all arrivals to the UK for various reasons, including those who have EUSS status. That does not mean that it is likely a person will encounter difficulties at the border but it is a possibility. If you have specific concerns about travelling to the UK it is worth speaking to a qualified adviser before travelling.

42. Q Under presettled status: What happens to non-eu family members if their eu family member-leaves the UK then divorces them? However, the eu-family member has built a life in the UK and want to remain? [Anonymous]

A If the non-EU family member has lived with their EU sponsor in the UK for five years before their sponsor leaves the UK, then they should be eligible for settled status. If the EU sponsor leaves the UK before the non-EU family member has five years, they will need to understand whether they have 'retained rights' of residence which will depend on the specific facts of their situation. We have several FAQs on our website, see-

- [I am a non-EU citizen and was granted pre-settled status on the basis of my relationship with an EU family member. My family member has left the UK / passed away, will I still be able to apply for settled status?](#)
- [I am a non-EU citizen and was granted pre-settled status on the basis of my relationship with my EU partner. The relationship has broken down, will I still be able to apply for settled status?](#)

43. Q My 5-year pre-settled status will expire a month before I will qualify for settled status (due to me applying to follow a EU family member before moving there due to advise on the Home Office website; after being granted pre-settled status, it took me roughly a month to move to the UK). As someone coming in as a family member after 2020, I will not be granted a status automatically if I understand correctly. So will I need to apply for an extension of my pre-settled status (before being eligible 1 month later to apply for settled status)? Or is there an automated process for extending

pre-settled status (rather than getting settled status) although I am a family member coming after 2020? *[Anonymous]*

A It is correct that as a sponsored family member, you will not be considered for automated upgrade to settled status. However, you should receive an automated extension of your pre-settled status, which will then allow you to submit a manual application for settled status once you become eligible (i.e. you have completed the five year residency period). It is a very common situation that joining family members arrived in the UK some time after their grant of pre-settled status, so the3million was always concerned that people in this situation would need to make a second application for pre-settled status to 'bridge the gap' to reach five years residence. Thankfully the Home Office automatic extensions of pre-settled status mean that people arriving after they were granted pre-settled status can rely on the extension until they reach five years residence.

44. **Q** Last year, I was considered for settled status conversion under the automatic procedure. Although I had more than 5 years of HMRC records, I was not converted because I had not applied with a national insurance number when making an EUSS application in the first place. With the new rules in force and after reading about other people's horrid experiences (such as missing travel logs or logs about journeys that had not been taken), I am now scared to apply manually for upgrade. I am just not sure I have kept each and every ticket/boarding pass for travel journeys taken in the past. Nor has the air carrier retained such extensive records. How can I add my national insurance number to my existing pre-settled without creating a new application and via which app?
[Andrea]

A It is unfortunately the case that the automation process requires the National Insurance to be present on the pre-settled status application. However, if you submit a manual application to upgrade to settled status, and supply your National Insurance number on that new application, the system will use the same checks against HMRC records as the automation process would use. Therefore if it can find five years of HMRC records, you should be granted settled status without being required to upload extra evidence of your residence.