

Safeguarding the position of EU citizens living in the UK and UK nationals living in the EU – what does the UK propose?

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This article is produced by the National Assembly for Wales' European and Constitutional Affairs research team as part of its work to keep Members and stakeholders up to date and informed on the ongoing negotiations on Brexit. This is part two of a two part blog on the [UK Government's Safeguarding the position of EU citizens living in the UK and UK nationals living in the EU policy paper](#). The first was published on 29 June and provided some background and context to this stage of the negotiations. This article sets out some of the key aspects of the UK Government's recent policy paper.



UK citizenship rights after the UK leaves the European Union

Some of the key proposals from the UK Government's policy paper on the rights of EU citizens include:

- EU citizens who have **resided in the UK before a specified date** (which is not yet set, but it will be no earlier than 29 March 2017 and no later than 29 March 2019) for a period of five years will be able to apply for 'settled status'. EU citizens who gain **settled status will continue to have access to UK benefits** on the same basis as a comparable UK national under domestic law. However, the UK Government notes that **'free movement rights will come to an end** and therefore cannot be carried forward, as an EU legal right, into the post-exit UK legal regime'. This means that even those EU citizens who currently have **'permanent residence' status will have to apply to get 'settled status'** in order to remain in the UK indefinitely.
- EU citizens will be given a **'grace period'** following the UK's withdrawal from the EU to apply for settled status. This **'grace period' has not been set** but the UK Government states it expects it to be set at two years.
- EU citizens who have resided in the UK before the specified date for less than five years but who will have been in the UK five years by the end of the 'grace period' will also be allowed to apply for settled status.
- EU citizens who have resided in the UK for less than five years before the specified date and after the 'grace period' is completed will be required to apply for temporary permission to stay but will also be able to apply for settled status once they have been resident for five years.
- EU citizens who arrive in the UK, **after the yet to be announced, specified date** will be permitted to remain in the UK for **'at least a temporary period'**, but they 'should have no expectation of guaranteed settled status'. Those who arrive after the specified date will have **limited access to public services** (including health) and economic and 'other relevant rights'. Their rights will depend on the immigration arrangements that the UK Government decides to impose once it leaves the EU.
- EU students and those starting courses at a university or FE institution in the **2018/19 academic year, will be eligible for student support** and home fee status for the duration of their course.



- **Family dependants who join a qualifying EU citizen** in the UK before the UK's exit will be able to apply for settled status after five years, irrespective of the specified date. Those joining after the UK's exit from the EU will be subject to the post-exit immigration arrangements.
- That **EU citizens living in the UK after Brexit will have legally enforceable rights**, however these new rights the UK Government proposes that there are **upheld by the UK judicial system**, rather than the Court of Justice of the European Union.
- The UK Government proposes to **deal with the European Free Trade Association (EFTA) States 'on a reciprocal basis'**.

In terms of the estimated 1 million UK citizens who are resident in EU countries the UK Government position paper states:

Firstly, UK nationals in the EU must be able to attain a right equivalent to settled status in the country in which they reside. Secondly, they must be able to continue to access benefits and services across the member states akin to the way in which they do now.

The European Union response

In response to the UK Government's policy paper, Michel Barnier, the European Union's lead negotiator [for this phase of the negotiations tweeted](#):

EU goal on #citizensrights: same level of protection as in EU law. More ambition, clarity and guarantees needed than in today's UK position.

He also re-published the [EU's Position paper on "Essential Principles on Citizens' Rights"](#). That paper sets out the detail of its desire to see UK resident EU citizens retain their current rights after the UK leaves the EU. It recommends that the Court of Justice of the European Union should continue to be the body that upholds EU citizen's rights in the UK.

Next Steps

The UK and the EU will now have to negotiate and come to an agreement as to how their divergent views can be brought into alignment. The **next round of negotiations** between the UK and EU will take place on 17 July 2017. Further rounds are planned for August, September and October. [The terms of reference for the first phase of](#)



[the negotiations](#), how they will operate and what they will contain was agreed by the EU and the UK on 19 June.

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