



Home Office

EU Settlement Scheme

Looked-after children and care leavers:
local authority and health and social care
trust guidance

April 2020



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Any enquiries regarding this publication should be sent to us at feedback-EUSS@homeoffice.gov.uk.

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Introduction

This information pack sets out the role that local authorities and health and social care trusts have in ensuring that looked after children and care leavers, who are EU, other European Economic Area (EEA) or Swiss citizens, or their family member, make an application to the EU Settlement Scheme. The UK immigration status granted to eligible applicants under the scheme will enable them to continue living in the UK after 30 June 2021, with the same rights and entitlements as they had before the UK left the EU.

In this document, all those eligible to apply to the scheme will be referred to as EEA citizens or their family members.

The information will:

- Explain your role as local authorities (England, Scotland and Wales) and health and social care trusts (Northern Ireland) in supporting looked after children and care leavers who are EEA citizens or their family members.
- Signpost where to access further support.

For detailed information and guidance about the EU Settlement Scheme, the application process and the eligibility criteria see: <https://www.gov.uk/settled-status-eu-citizens-families>.

Contacts

If you have any questions about the guidance or you think that the guidance has factual errors, then email the Settlement Resolution Centre at: <https://eu-settled-status-enquiries.service.gov.uk>.

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 also email the Settlement Resolution Centre at: <https://eu-settled-status-enquiries.service.gov.uk>.

Publication

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

- version 1.0
- published for local authority and health and social care trust staff on 30 April 2020

Changes

This is new guidance.

The role of the local authority in England, Scotland and Wales and the health and social care trust in Northern Ireland

The mandatory obligations of local authorities and health and social care trusts supporting looked after children and care leavers include:

- To identify adequately trained resource to manage and make applications.
- To identify eligible children, including;
 - looked after children for whom the authority has parental responsibility.
 - looked after children who are accommodated.
 - care leavers.
 - any other children in receipt of local authority support, for example children in need.
- To identify key signposting responsibilities towards each eligible child and put plans in place to ensure this signposting support takes place.
- To determine, for each child the local authority has parental responsibility for, whether you will be applying online and whether you can use the EU Exit: ID Document Check app or will be posting their identity document to the Home Office to be checked and returned.
- To keep an adequate record of each application made, including the status granted and which email address and phone number were used. You should also note the answers given to memorable questions in each case, in case the Home Office needs to authenticate you or the child to discuss the application.
- To record plans for monitoring the child's status, including future actions, with deadlines, to be carried out, in order, where the child is granted pre-settled status (generally where they been continuously resident in the UK for less than five years), to apply to convert this to settled status at the appropriate time in the child's care plan or the care leaver's pathway plan.

Data recording

When you make an application on behalf of a looked after child, or if you otherwise signpost or support someone to make an application for a looked after child or care leaver,

it is essential that you record key information. This information needs to be accessible in the event that you, the child or the Home Office need to check on the progress of the application and to ensure the digital status granted can be accessed.

Detailed records and plans for monitoring the child's status, including future actions with deadlines, to be carried out in order to convert pre-settled status into settled status once the child or care leaver has accrued five years' continuous residence should be documented in the child's care plan or the care leaver's pathway plan. Information should be stored centrally so that changes in personnel do not affect the ability to access it if needed. Applicants and relevant third parties (e.g. parents/carers) should also be made aware of the need to store this information themselves, where appropriate. Data should be stored securely in line with your organisation's GDPR policies. Ensure you record:

- The Unique Application Number (UAN) given when the application is made.
- The e-mail(s) and phone number(s) that were entered in the application form.
- The address that was entered in the application form.
- The answers that were given to the memorable questions at the end of the application form.
- The nationality of the child or care leaver.
- The status the child or care leaver was granted.
- The date that the child or care leaver can apply to convert their pre-settled status into settled status, and the date their pre-settled status expires (required only for those granted pre-settled status).

Getting started

Once you have identified which looked after children and care leavers are in scope of the scheme, you will need to follow the specific instructions below for each UK country to find out what your responsibilities are. The EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members guidance will help you to identify who is in scope. That guidance can be found here: <https://www.gov.uk/government/publications/eu-settlement-scheme-caseworker-guidance>.

At this point you should ensure that consideration is given to the child's wishes and feelings and ensure that the child is aware of their right to access independent advocacy support.

Child with a care order, interim care order or placement order

England

If the child is looked after under a care order or interim care order under s.31 or s.38 of the Children Act 1989, or a child with an adoption placement order under s.21 of the Adoption and Children Act 2002 and the local authority has parental responsibility for the child, you should ensure that the application is made. You can either make the application on behalf of the child, or, if deemed more appropriate due to the age and maturity of the child, you can support the child to make their own application.

Wales

The guidance above also applies to Wales but in relation to the Social Services and Wellbeing (Wales) Act 2014. If the child is looked after under an interim care order under s.31 of the Children Act 1989 or a care order under s.38 of the Children Act 1989, or if the child is subject to a placement order under s.21 of the Adoption and Children Act 2002 and the local authority has parental responsibility for the child, you should ensure that the application is made.

Scotland

Local authorities must ensure that an application is made by or on behalf of any children for whom they hold full responsibility under a permanence order under s.80 of the Adoption and Children (Scotland) Act 2007. You can either make the application on behalf of the child, or, if deemed more appropriate due to the age and maturity of the child, you can support the child to make their own application. Where a permanence order can appropriately be applied for, an interim order could be used to provide the local authority with the power to make the application on the child's behalf: see s.81(2)(f) of the 2007 Act.

Northern Ireland

If the child is looked after under a care order, Articles 50 or 57 of the Children (Northern Ireland) Order 1995 apply and the health and social care trust has shared parental responsibility for the child. If the child is subject to a freeing for adoption order under Article 17 or 18 of the Adoption (Northern Ireland) Order 1987, you should ensure that the application is made. You can either make the application on behalf of the child, or, if deemed more appropriate due to the age and maturity of the child, you can support the child to make their own application.

Accommodated children

England

If the looked after child is accommodated under s.20 of the Children Act 1989, the local authority does not have parental responsibility for the child. The local authority should

ensure that the child and those with parental responsibility for that child are aware of the need to make an application to the scheme, signpost them to the scheme, explain why it is important to apply and offer practical support where needed.

The local authority should ensure that it works closely with the person with parental responsibility to monitor the progress of any application made, providing practical support as appropriate.

A child does not require consent from an adult in order to apply. They can make their own application. It is important therefore that the local authority ensures all eligible looked after children are aware of their eligibility to apply and that decisions are made in the child's best interests.

In cases where the child is being accommodated because there is no-one with parental responsibility for the child or the child is lost or abandoned, the local authority will need to consider carefully how best to safeguard and promote the welfare of that child in accordance with the local authority duties under s.22(3) of the Children Act 1989.

Wales

The guidance above also applies to Wales but in relation to s.76 of the Social Services and Wellbeing (Wales) Act 2014. In cases where the child is being accommodated because there is no-one with parental responsibility for the child or the child is lost or abandoned, the local authority will need to consider carefully how best to safeguard and promote the welfare of that child in accordance with the local authority duties under s.78 of the Social Services and Well-being (Wales) Act 2014.

Northern Ireland

The guidance above also applies to Northern Ireland but in relation to Articles 21 and 22 of the Children (Northern Ireland) Order 1995. In cases where the child is being accommodated because there is no-one with parental responsibility for the child or the child is lost or abandoned, the health and social care trust will need to consider carefully how best to safeguard and promote the welfare of that child in accordance with the trust duties under Article 18(1) of the Children (Northern Ireland) Order 1995.

Scotland

Local authorities can encourage parents/carers to make an application on behalf of all children who are looked after under s.17(6) of the Children (Scotland) Act 1995 for whom they do not hold parental rights and responsibilities. This will include children on compulsory supervision orders at home or away from home, and children looked after under s.25 of the Children (Scotland) Act 1995.

The local authority should ensure that the child and their parents/carers are aware of the importance of making an application to the scheme, signposting and giving practical support where needed.

The local authority should work closely with the parent/carer to monitor the progress of any application made, providing practical support as appropriate.

A child does not require consent from an adult in order to apply. They can make their own application. It is important therefore that the local authority ensures all eligible looked after children are aware of their eligibility to apply and that decisions are made in the child's best interests.

Any other children in receipt of local authority support

England

If you identify other eligible children receiving support, for example children in need, you can promote the scheme and signpost to relevant available support.

In identifying all eligible children and ascertaining what your responsibilities are, you should also consider the Department for Education's statutory guidance 'Care of unaccompanied migrant children and child victims of modern slavery':

<https://www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children>.

Wales

In relation to unaccompanied asylum-seeking children, there are guides for social workers and foster carers here:

<https://gov.wales/unaccompanied-asylum-seeking-children-guidance-professionals>.

Scotland

Children and young people looked after under s. 17(6) of the Children (Scotland) Act 1995 are all children that an authority may be required to support. It may be helpful to highlight that migrant children who are being looked after under s.25 of the Children (Scotland) Act 1995 should also be supported. This guidance may be of assistance:

<http://www.migrationscotland.org.uk/uploads/Migrants%20Rights%20and%20Entitlements%20Guidance.pdf>.

Northern Ireland

In relation to unaccompanied asylum-seeking children, the following two pieces of guidance have been produced:

- Working Arrangements for the Welfare and Safeguarding of unaccompanied and separated children and young people; and
- Working Arrangements for the Welfare and Safeguarding of child victims and potential child victims of human trafficking and modern slavery:

<https://www.health-ni.gov.uk/publications/protecting-unaccompanied-children-and-child-victims-human-trafficking-and-modern-slavery>

Care leavers

England

As per legislation and guidance, local authorities have a responsibility to provide ongoing support to young people who qualify for leaving care support up to the age of 25.

See ss.23A – 24D of the Children Act 1989 and the Care Leavers (England) Regulations 2010:

<http://www.legislation.gov.uk/ukpga/1989/41/part/III/crossheading/advice-and-assistance-for-certain-children>

<http://www.legislation.gov.uk/uksi/2010/2571/contents/made>

Ensuring that care leavers secure a status through the EU Settlement Scheme is relevant to these existing statutory responsibilities.

Acknowledging that there may be occasions when extra support is necessary, the local authority should identify care leavers who may be eligible to apply to the scheme and offer them support to ensure that they make an application.

In some cases, if deemed more appropriate due to their age and maturity, the local authority may signpost them to make their own application or may need to offer practical support.

Identifying the support that can be provided to help eligible young people to make an application to the scheme and keeping an adequate record of applications made and status granted should form part of the necessary pathway planning for care leavers ordinarily carried out by local authorities and health and social care trusts in discharge of their duties.

In the case of a pre-settled status outcome, plans for applying to convert this into settled status, including the deadline for doing so, must be documented in the care leaver's pathway plan.

In the event of a request for further information or a refusal decision, you should follow this up with the care leaver in a timely fashion to ensure the best possible outcomes are achieved for the individual. Activities may include contacting the Home Office (UK Visas and Immigration) via the Settlement Resolution Centre on their behalf, and/or seeking independent legal advice for or with the individual.

You should consider whether you need to engage an independent immigration adviser. An immigration adviser can advise whether legal aid funding via the exceptional case funding scheme may be available to cover the cost of immigration advice.

Information about legal advice and access to legal aid can be found on [page 16](#) of this guide.

All issues relating to immigration status and ongoing monitoring should be included in detail in the care leaver's pathway plan.

Wales

The guidance above also applies to Wales but in relation to the Care Leavers (Wales) Regulations 2015:

<http://www.legislation.gov.uk/wsi/2015/1820/contents/made>.

Local Health Boards' (LHB) duties in Wales, in relation to looked after children, only extend to undertaking health assessments and providing a written report. LHBs are not under a duty to prepare the pathway plan.

Northern Ireland

The guidance above also applies to Northern Ireland but in relation to the Children (Leaving Care) Regulations (Northern Ireland) 2005:

<http://www.legislation.gov.uk/nisr/2005/221/contents/made>.

Scotland

In Scotland, local authorities, in fulfilling their duties as corporate parents under s.58 of the Children and Young People (Scotland) Act 2014:

<http://www.legislation.gov.uk/asp/2014/8/section/58/enacted>, must be alert to matters which adversely affect the wellbeing of children and young people, and take such action as they consider appropriate to help those children and young people. This includes young care leavers up to the age of 26.

Local authorities have duties as follows:

- to provide “continuing care” to a young person, aged between 16 and 21, who was formerly looked after by the local authority (as provided for in s.26A of the Children (Scotland) Act 1995).
- to provide “after-care” to a young person up to the age of 26 (as provided for in s.29 of the Children (Scotland) Act 1995).

Ensuring this group of young people secure a status through the EU Settlement Scheme is relevant to these existing statutory responsibilities. Those who are eligible should be

identified, and encouraged and supported to apply to the scheme. This includes pre-settled status and settled status applications as appropriate.

In the event of a request for further information or a refusal decision, you should follow this up with the care leaver in a timely fashion to ensure the best possible outcomes are achieved for the individual. Activities may include contacting the Home Office (UK Visas and Immigration) via the Settlement Resolution Centre on their behalf, and/or seeking independent legal advice for or with the individual.

Youth Custody Establishments

Children and young people in youth custody establishments (Young Offender Institutions, secure training centres, secure children's homes and secure schools) who are EEA citizens or their family members may, or may on their release, be eligible to apply to the scheme. Youth custody establishments should identify a designated EU Settlement Scheme lead (e.g. resettlement manager, social worker or caseworker) to coordinate application planning and provide oversight. The designated lead will need to ensure that children and young people who may, or may on their release, be eligible to apply are identified, their legal carers are alerted and application plans are formulated in collaboration with relevant authorities.

Where parental responsibility lies with the child or young person's legal parents, they should be completing applications on their behalf. However, the youth custody establishment and local authority still have a responsibility to raise awareness of the application process to family members so they can make informed decisions; the level of involvement required will need to be assessed on a case by case basis. All looked after children in the youth justice system will require additional support. Where parental responsibility lies with the local authority, the local authority is responsible for ensuring that applications for status under the EU Settlement Scheme are submitted. Alternatively, the local authority can support the child or young person to make their own application. If you are supporting a child or young person involved in the criminal justice system, you should consider seeking independent immigration legal advice. These cases can be complex, so may require expert assistance to ensure the best possible outcomes. For further information relating to changes to care status because of criminal justice decisions, please refer to Annex 8 of the Children Act 1989 guidance and regulations, Volume 2: care planning, placement and case review is available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/441643/Children_Act_Guidance_2015.pdf

Youth custody establishments should also work with Youth Offending Teams (in England and Wales) and the equivalent services in Scotland and Northern Ireland, especially in preparation for that child or young person's release to ensure there is a smooth handover of relevant details. Application progress or planning should be discussed during sentence

planning or detention training order reviews that Youth Offending Teams and Children's Services (or their equivalents in Scotland and Northern Ireland) will be attending. This will enable relevant information to be communicated to local authorities upon release. This process should form part of that child or young person's constructive resettlement agenda.

If it is necessary for a youth custody establishment to complete an application on behalf of the child or young person, the designated lead can complete an online application or support the individual to complete their own paper-based application. Although the child or young person's parents should be involved in the application process, the child or young person can make their own independent application if they wish without parental consent. The child or young person's application details should be recorded centrally as part of their review so that information remains easily accessible during establishment transfers, transitions to the adult estate and upon release.

Appeal Rights and Administrative Review

Some decisions under the EU Settlement Scheme can be challenged by an internal administrative review and/or an appeal. The decision letter will tell you whether there is the right to apply for an administrative review or to appeal and will provide links to further information on the process and the fees payable:

<https://www.gov.uk/guidance/eu-settlement-scheme-apply-for-an-administrative-review>.

<https://www.gov.uk/immigration-asylum-tribunal>.

Do I need to be legally qualified to support a child or care leaver to make an application to the EU Settlement Scheme?

The Office of the Immigration Service Commissioner (OISC) is the regulatory body for the provision of immigration advice.

OISC has confirmed that, where there is a care order giving the local authority or health and social care trust parental responsibility, that authority or trust can advise and act for the child in relation to an application under the EU Settlement Scheme without the need for such advice and services to be regulated by the OISC or another designated qualifying regulator.

Whilst applications to the scheme are free and the process is simple to navigate, in more complex cases, such as cases where there are eligibility issues for non-EEA national children of EEA citizens, where the child resides on the basis of a derivative right of residence under EU law, or where British citizenship can be applied for, the local authority or health and social care trust may wish to seek independent legal advice, in line with its own organisation's processes and policies.

The local authority or health and social care trust may choose to seek independent legal immigration advice. Public funding in the form of legal aid may be available for some particularly vulnerable individuals, such as victims of modern slavery or human trafficking, victims of domestic violence and separated migrant children.

Legal aid may also be available through the exceptional case funding scheme where a failure to provide legal aid would breach, or risk breaching, rights under the European Convention on Human Rights or enforceable EU law rights.

Further information about how to apply for legal aid to fund independent legal advice for a child or care leaver making an application to the EU Settlement Scheme can be found at:

<https://www.gov.uk/legal-aid>.

The Home Office Settlement Resolution Centre can be contacted for support. Contact details can be found on [page 22](#) of this guide.

In cases where there is no care order giving the local authority or health and social care trust parental responsibility, the local authority or health and social care trust should signpost to further information and offer support, to ensure the individual is able to make an application. For example, for a care leaver or a child for whom the local authority or

health and social care trust does not have parental responsibility, it will need to ensure its support does not stray into that of giving 'immigration advice'.

In accordance with existing statutory duties the local authority or health and social care trust must, in all circumstances, seek to secure the best possible outcomes for the looked after child, safeguarding and promoting their best interests and acting as a good corporate parent to enable each looked after child to achieve their full potential in life. Addressing immigration issues early as part of any assessment and care plan, offering support and if necessary, seeking legal advice about the appropriate action based on the circumstances of the individual looked after child is an important part of these responsibilities.

Further guidance about the OISC can be found here:

<https://www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner>

Other issues

British citizenship

Before making an application to the EU Settlement Scheme on behalf of a looked after child, the local authority or health and social care trust should consider whether the child might be a British citizen. If they are, they are not eligible for the scheme. The local authority or health and social care trust can check whether a child is a British citizen by following guidance available at:

<https://www.gov.uk/check-british-citizenship>.

It is important to consider this guidance and what is – or will be – in the best interests of the child in relation to any application for British citizenship. The local authority or health and social care trust may want to consider obtaining independent immigration legal advice.

Identity documents

Verifying the applicant's identity and nationality is a key requirement of the EU Settlement Scheme. If a child or young person does not have a valid passport or national identity card (for EEA citizens) or a valid passport or Home Office-issued biometric residence card or biometric residence permit (for non-EEA nationals) confirming their identity and nationality, it is important that the local authority or health and social care trust endeavours to obtain a passport or national identity card for the child or young person from the authorities of their country of origin before an application to the scheme is made.

Obtaining these identity documents should be a familiar process for local authorities and health and social care trusts, as they will be required in other circumstances. The local authority or health and social care trust is advised to contact the relevant embassy, consulate or high commission if it is experiencing issues obtaining an identity document or needs more information about how to do so on behalf of a looked after child or care leaver.

The Home Office recognises that there will be cases where the applicant (or a local authority or health and social care trust acting on their behalf) is unable to obtain or produce the required identity document due to circumstances beyond their control or to compelling practical or compassionate reasons, and can accept alternative evidence of identity and nationality in such cases. Further information can be found in the EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members guidance which is available here:

<https://www.gov.uk/government/publications/eu-settlement-scheme-caseworker-guidance>.

Paper application form process guide

If a child or young person does not have the required identity document (see the previous section of this guide) and there are circumstances beyond their control or compelling practical or compassionate reasons why it is not possible to obtain or produce one, the local authority or health and social care trust will need to make the application using a paper application form.

You must contact the Home Office Settlement Resolution Centre (SRC) which will confirm whether a paper application form is necessary and ensure that the correct form, if applicable, is issued. You can also contact the SRC if you have any questions about the scheme or to discuss an open application.

Details about how to contact the SRC can be found at [page 22](#) of this guide.

A local authority or health and social care trust will be able to request multiple paper application forms in a single enquiry.

A request for a paper application form should include details such as the name, nationality and date of birth of the child or young person, and details of why a paper application form is required rather than using the online form. The local authority or health and social care trust will also need to state why it is requesting the form on behalf of a child – i.e. that the local authority or health and social care trust has parental responsibility for them.

The paper application form will be uniquely coded, and therefore will only be for use in respect of the child or young person for whom it was issued.

Other information

Pre-application Checklist

Please use the following checklist to help prepare you to apply, or to help prepare others who need to apply, on behalf of a looked after child:

- ✓ Consider British citizenship. Is the child a British citizen? Could they apply or register for British citizenship? What's in the child's best interests?
- ✓ Consider the child's wishes and feelings. All looked after children should be made aware their entitlement to independent advocacy support and the local authority or health and social care trust should facilitate this access where required.
- ✓ Gather identity document(s).
- ✓ Make an application for an identity document where there is none.
- ✓ Consider evidence of UK residence – usually this will be in the form of a letter by the local authority or health and social care trust confirming length of residence.
- ✓ Consider the paper application form route where a valid identity document cannot be obtained or produced.
- ✓ Record all key information to be accessed by the child or other carers in the future.

Communications Toolkit

You can download and order leaflets and posters to assist you and your colleagues. Further information is available at:

<https://www.gov.uk/government/collections/eu-settlement-scheme-community-groups-toolkit>.

Useful Contacts

In line with the latest Public Health England advice on coronavirus (COVID-19), some of the support services and application routes for the EU Settlement Scheme have temporarily changed. See the relevant weblink for further information.

Contact	Useful for	Phone number	Weblink
Settlement Resolution Centre (SRC) Monday to Friday (excluding bank holidays), 8am to 8pm; Saturday and Sunday, 9:30am to 4:30pm.	Additional information or support about the EU Settlement Scheme or individual applications.	Public number - 0300 123 7379 Designated local authority line – 0300 790 0566	https://eu-settled-status-enquiries.service.gov.uk
Assisted Digital Service Monday to Friday (excluding Bank holidays) 9am-6pm, Saturday 9am to 4pm	Digital support for those who do not have the skills, access or confidence to complete the online form (not immigration advice).	03333 445 675	https://www.gov.uk/government/publications/eu-settlement-scheme-assisted-digital-service
Main application guidance	Full guidance on the application process.		www.gov.uk/settled-status-eu-citizens-families
Update applicants' EU Settlement Scheme details	Updating or amending details such as mobile number, email address, identity document.		www.gov.uk/update-eu-settlement-scheme-details
ID Document scanning locations	Locations where biometric passports can be scanned if you have no device with NFC capability.		https://www.gov.uk/government/publications/eu-settlement-scheme-id-document-scanner-locations
OISC	Locating nearby immigration advisers.		http://home.oisc.gov.uk/adviser_finder/finder.aspx

Community bulletins	Receiving updates on the EU Settlement Scheme.		https://gov.smartwebportal.co.uk/homeoffice/public/webform.asp?id=132&id2=413D6B
Email alerts	Email updates on developments on the EU Settlement Scheme.		https://gov.smartwebportal.co.uk/homeoffice/public/webform.asp?id=67&id2=627DF7