

EEA Citizens Access to Benefits Post Transition Period

After January 1 2021 EEA citizens will fall under two broad categories. Those who arrived before 1 January 2021 will fall under one set of rules, whereas those who arrive after 1 January will fall under another set of rules.

EEA citizens who arrive after 1 January 2021:

EEA citizens coming to the UK under the new points-based immigration system from 1 January 2021 will have the same access to benefits as non-EEA migrants.

All non-British citizens (excluding Irish citizens) who arrive from 1 January 2021, except for in special circumstances, will be restricted from accessing income-related benefits until they have achieved indefinite leave to remain, typically after 5-years. Subject to a few exemptions, existing immigration legislation grants leave to remain to non-EEA migrants on the condition that they do not have recourse to public funds during this 5-year period.

EEA citizens who arrived before 1 January 2021:

Those covered under the Withdrawal Agreement will have their EU rights protected.

EU Settlement Scheme:

EEA citizens' resident in the UK prior to the end of the transition period (11pm 31 December 2020) and their family members need to apply to the EU Settlement Scheme (EUSS) to continue living in the UK after 30 June 2021. Those granted settled status will have the same access to benefits as comparable British citizens. Those issued pre-settled status will have the same access to benefits as now. Further information can be found at: <https://www.gov.uk/settled-status-eu-citizens-families/>

Grace Period:

EEA citizens, resident in the UK by the end of the transition period will have until the 30 June 2021 to apply to EUSS. The six-month period from 1 January to 30 June 2021 is called the Grace Period. It is a requirement under the Withdrawal Agreement to protect the rights of EEA citizens and their family members who were lawfully resident before the end of the transition period.

This means that EEA citizens and their family members yet to attain EUSS can still access benefits and services during the Grace Period providing they were lawfully resident at the end of the transition period. Those with pending applications for EUSS with the Home Office will also have their rights to access benefits and services protected until their application is finalised.

Family Re-unification:

EEA citizens in scope of the Withdrawal Agreement can be joined by close family members (spouses, civil and unmarried partners, dependent children and grandchildren, and dependent parents and grandparents) who live in a different country at any point in the future, if the relationship existed on 31

December 2020 and still exists when the family member wishes to join the EEA citizen in the UK.

The family member will have 3 months from their date of arrival or the end of the Grace Period to apply for the EUSS (whichever is later) and will have their rights to access benefits and services protected. If the family member is a third country national they can apply for an EUSS family permit or EEA family permit. Information relevant to this can be found below:

<https://www.gov.uk/family-permit/>

Those from an EEA country will not require a family permit.

Explainer/s:

Withdrawal Agreement:

In October 2019, the UK and the EU finally agreed a Withdrawal Agreement to end UK membership of the EU. This settled the UK's financial obligations, the status of citizens in both the UK and the EU. These are now legally binding commitments and were approved by Parliament when it passed the EU (Withdrawal Agreement) Act in January 2020, which allowed UK exit on 31 January.

In scope of the Withdrawal Agreement (WA):

For the benefit of this letter in context of the benefits and services. The WA protects the rights –to benefits and services - of the EEA citizens who were lawfully residing in the UK before 11pm 31/12/2020. Such EEA citizens are covered under the WA hence the term “in scope of the WA).

Transition Period (TP):

Following UK's exit from the EU, UK entered a transition period. This started in January 2020 and will end on 31st December 2020. Transition Period allows UK to work on commitments set with in the Withdrawal Agreement.