

EU Citizens Living in the UK: A Self-Help Guide

*Adrian Berry,
Barrister, Garden Court Chambers
adrianb@gclaw.co.uk
Facebook: @CosmopolisMigration*

There are two things you can do

(i) **Secure your position:**

by getting Residence documents and working towards the EU right of permanent residence (if you do not already have it), and

(ii) **Help lobby and influence the UK government:**

Join together with your fellow nationals (Germans, Swedes, Italians, Poles, etc.) and join a campaign online, through social media and in person, to ensure the widest possible retention of free movement rights.

This self-help guide is for you if you are
(or are the family member of) a
national of:

Austria, Belgium, Bulgaria, Croatia, Cyprus,
Czech Republic, Denmark, Estonia, Finland,
France, Germany, Greece, Hungary, Iceland,
Ireland, Italy, Lichtenstein, Luxembourg,
Malta, the Netherlands, Norway, Poland,
Portugal Latvia, Lithuania, Romania, Slovakia,
Slovenia, Spain, Sweden, or Switzerland.

Securing your position

- For the moment the UK is a full member of the European Union (EU) and participates in the European Economic Area (EEA). The UK is also bound by EU arrangements with Switzerland.
- Until the UK leaves the EU, which will be months if not years after it has triggered the Article 50 (of the Treaty on European Union) procedure, EU rights of free movement continue. There is time in which periods of UK residence may be built up on the way to securing a right permanent residence here.
- While there is no guarantee that if the UK leaves the EU, such rights will be respected, it is still sensible to do what you can to entrench your position. Analyse your position and prepare, if necessary, seek advice.

Documents

Get UK Home Office residence documents if you do not have them: (i) EU/EEA nationals exercising EU/EEA free movement rights in the UK may apply for a Registration Certificate, family members from countries outside the EU/EEA may apply for Residence Cards. – *If you do not have, or have not applied for, residence documentation, you may be worse off if and when the UK leaves the EU. Remember also that residence documents are only evidence of a right, they do not confer it; you will have an EU right of residence because of what you do, not because the Home Office give you a document.*

- Details on the procedure for securing residence documents may be found at:
- <https://www.gov.uk/browse/visas-immigration/eu-eea-commonwealth>

Permanent Residence

Check to see if you have acquired the EU right of permanent residence in the UK and if so apply for a Permanent Registration Certificate (EU citizens/EEA nationals) or a Permanent Residence Card (non-EU/non-EEA family members). – *Those people who have acquired documents recognising permanent residence may be better off than those who have not, if and when the UK leaves the EU.*

Keep a record of your time in the UK

If you are unsure about whether you have spent enough time in the UK doing things that give you a right of residence, write down a timeline or chronology of the time or times you have been in the UK, what you were doing and when you were doing it.

Evidence

Keep all the documentary evidence you can about where you were living and when (tenancy agreements, utility bills, etc), what you were doing (for example records of work such as payslips or P60s, or study records from you school, college or university).

Mind the gap

If there are gaps in the time you spent in the UK, or periods of time when you were in the UK not working, you may still have been enjoying an EU right of residence in the UK. Do not give up hope. Keep a careful record and seek advice.

Aggregation

Remember that it may be possible to push periods of UK presence and/or activity in the UK together to build up periods of time that enable you to acquire a right of permanent residence. Seek advice if unsure.

EU Permanent Residence in the UK

Permanent residence is usually acquired after five years exercising a right of free movement, though in some cases it may be acquired in less time, where you are approaching retirement, are permanently incapacitated or there has been a death in the family.

The principal ways of exercising free movement rights/rights to reside are:

- (i) As a **Jobseeker** (a time-limited status)
- (ii) As a **Worker/employee**
- (iii) Some Workers, may *retain* worker status when no longer working for periods of time. You may need specialist advice if you think this may apply to you.
- (iv) As a **Self-employed person**

The principal ways of exercising free movement rights/rights to reside are:

- (v) As a **Self-sufficient person** (such a person needs *comprehensive sickness insurance*: this can be private health care, or in some cases public health care rights from your home country. This is a complex area on which you may need advice)
- (vi) As a **Student** (as above, needs comprehensive sickness insurance)
- (vii) As a **family member** (of any nationality) of an EU citizen/EEA national who is exercising free movement rights: (1) **spouses**, (2) **civil partners**, (3) **children and grandchildren** (descendants) under 21 or if 21 and over where dependent, **dependent parents and grandparents** (relatives in ascending line)

The principal ways of exercising free movement rights/rights to reside are:

(viii) **An an extended family member** (who *will* need Home Office residence documents to confer the right): (1) any **relatives** who dependents or members of an EU citizen/EEA national's household, (2) a **relative** of an EEA national or his spouse or his civil partner and, on *serious health grounds*, strictly requires the *personal care* of the EEA national his spouse or his civil partner, (3) a **relative** who would satisfy the dependant relative under UK Immigration Rules, (4) an **unmarried partner** in a durable relationship with an EU citizen/EEA national.

(ix) **With retained rights of residence** as a family member: on the *death, divorce from, or departure from the UK* of the principal EU citizen/EEA national exercising free movement rights,

(x) **Holding derivative rights of residence**: where your presence is required as the *primary carer* of child, so that the child can reside in the UK (for example because she is self-sufficient or in education as the child of a former worker) exercising free movement or other EU rights.

In a relationship with a British citizen

If you are lucky enough to be in a relationship with (or are a family member) of a British citizen, you may not readily be able to get an EU residence document by virtue of that relationship and you may have to rely on your own activity (for example work or study) - *but check to see if your British citizen spouse, partner, or family member has resided in another EU state for any length of time; if they have, seek specialist advice.*

Eastern Europeans

If you have lived in the UK during the first seven years of your country joining the EU, you may be able to count that time towards the five years necessary to acquire permanent residence but it will depend on what you were doing in that time and in some cases on whether you had the correct residence documents at that time. Seek specialist advice. *This applies to nationals of the Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Poland, Latvia, Lithuania, Romania, Slovakia, and Slovenia.*

Providing/Receiving Services

If you are providing (or indeed receiving) services temporarily on a commercial basis in the UK, you may be exercising a right of free movement. This is a poorly understood area and specialist advice will be needed.

Posted Workers

If you are not an EU citizen/EEA national and are from a country outside the EU/EEA but you have been living and working in another EU state, only to be posted temporarily by your employer into the UK, you may have a right of residence for certain purposes.

Becoming a British citizen

Once you have acquired a Permanent Registration Certificate, or a Permanent Residence Card, you may wish to apply for naturalisation as a British citizen in order to ensure your entitlement to come and go from the UK and to live and work here without restriction. The naturalisation process has its own requirements, procedures and forms, see:

<https://www.gov.uk/becoming-a-british-citizen/how-to-apply>

Becoming a British citizen

Two words of caution:

- (1) Check to see whether becoming a British citizen will lead to the loss of your own nationality and consider your position, some countries are intolerant of multiple nationality; and
- (2) The UK Home Office considers that dual nationals, where one of those nationalities is British citizenship and the other is nationality is that of another EU/EEA country, may *not* benefit from EU/EEA free movement rights, so any family members dependent on you exercising free movement rights will lose their right to rely on EU/EEA law if you become a British citizen. There is a legal challenge to the Home Office stance in the courts but for the moment, take care.

Help lobby and influence the UK government

Join together with your fellow nationals (Germans, Swedes, Italians, Poles, etc.) and join a campaign online, through social media and in person (through meetings, and marches, etc.), to ensure the widest possible retention of free movement rights. In any campaign, you may wish to stress the contribution (economically, culturally, socially) your community makes to the UK and how the UK will be the poorer if your lives are made more difficult by BREXIT.

Help lobby and influence the UK government

If and when the UK leaves the EU, there are a number of possible immigration systems that may apply: (1) strict immigration control, (2) free movement or as close to current free movement as possible, or (3) a particular mixture of the two. We cannot be sure what will happen.

Some issues that you may wish to consider campaigning on as part of what you would like to see, if and when the UK leaves the EU:

1. The preservation of rights already acquired and transitional protection for rights in the process of being acquired
2. Visa-free access to the UK
3. A right of admission on arrival in the UK
4. No conditions of entry to be stamped in your passport and no conditions placed on entry or residence
5. A general authorisation to work in any job, as a national of an EU/EEA state

Some issues that you may wish to consider campaigning on as part of what you would like to see, if and when the UK leaves the EU:

6. No restrictions on access to social assistance (EU citizens working in the UK pay tax and national insurance)
7. An entitlement to seek work
8. The freedom to be self-employed
9. No requirement for a work permit
10. No requirement to hold a residence permit

Some issues that you may wish to consider campaigning on as part of what you would like to see, if and when the UK leaves the EU:

11. An entitlement to acquire permanent residence after five years, or earlier in some cases (as now)
12. The right to be accompanied by your family members
13. Protection against expulsion from the UK to be maintained at the EU standard
14. Access to Social Security rights (for example contribution based benefits) and health care on the same basis as at present
15. Access to cross border health care rights, for example the EHIC card,

Some issues that you may wish to consider campaigning on as part of what you would like to see, if and when the UK leaves the EU:

16. No cap on numbers of EU citizens permitted to come to the UK
17. No language and/or integration tests to be imposed
18. At a minimum, reciprocity, so you get no less than what a British citizen will get when she travels to the remaining EU/EEA countries

The End

