

FRAGOMEN

REUNITE
FAMILIES UK –
APPENDIX EU

15 May 2023



AGENDA

- ▶ Overview of the EU Settlement Scheme ("EUSS") and EUSS Family Permit
- ▶ Differences between EUSS and applications under Appendix FM
- ▶ EEA citizens and options for family members of relevant EEA citizens
- ▶ EUSS Family Permits – Family Members
- ▶ Unusual applications – Surinder Singh, Lounes, McCarthy
- ▶ Application process for EUSS Family Permits
- ▶ Application process for EUSS Pre-Settled Status
- ▶ Applications for people already in the UK

**WITH
YOU
TODAY**



Sharon Muir
Senior Manager



Jenny Dang
Senior Associate



Osaro Idemudia
Senior Immigration
Consultant



Yan Wen Koo
Trainee



Katy Brown
Immigration Paralegal



OVERVIEW OF THE EUSS AND EUSS FAMILY PERMIT

THE EUSS: AN OVERVIEW

INTRODUCTION

- ▶ The EUSS serves to grant EU, EEA and Swiss citizens, and their family members status in the UK, since the UK's departure from the EU.
- ▶ If you are eligible under the EUSS, you may be granted pre-settled or settled status, depending on your circumstances.
- ▶ EUSS Family Permit
- ▶ EUSS Travel permit

THE EUSS: AN OVERVIEW

WHO IS ELIGIBLE TO APPLY FOR PRE-SETTLED?

- ▶ You are from the EU, Switzerland, Norway, Iceland or Liechtenstein and you started living in the UK by 31 December 2020; or
- ▶ You are the family member of someone from the EU, Switzerland, Norway, Iceland or Liechtenstein who started living in the UK by 31 December 2020
- ▶ The deadline for most people to apply to the EU Settlement Scheme was 30 June 2021. However, you may still apply if you or a family member were living in the UK by 31 December 2020 and if either:
 - A later deadline applies to you; or
 - You have ‘reasonable grounds’ for not applying by the deadline.

THE EUSS: AN OVERVIEW

YOU MAY BE ABLE TO APPLY AFTER THE DEADLINE OF 30 JUNE 2021 IF:

- ▶ You have a family member from the EU, Switzerland, Norway, Iceland or Liechtenstein living here since before 31 December 2020, with settled or pre-settled status and you join them in the UK on or after 1 April 2021;
- ▶ You are applying for your child, who was born or adopted in the UK on or after 1 April 2021;
- ▶ You are a child from the EU, Switzerland, Norway, Iceland or Liechtenstein and have lived in the UK since 31 December 2020. You must apply within 90 days of entry to the UK;
- ▶ Exempt from immigration control, or you stopped being exempt from immigration control after 30 June 2021;
- ▶ You are in the UK with limited leave to enter or remain (e.g. work or study visa) which expires after 30 June 2021. Note you must apply before your leave expires;
- ▶ If your spouse or civil partner is a Swiss citizen – you can apply until 31 December 2025 if the relationship with them began after 31 December 2020 and by 31 December 2025 and you are still in the relationship when you apply; or
- ▶ You are family member of a British citizen who you lived with in the EU, Switzerland, Norway, Iceland or Liechtenstein. Note you must have lived with them in that country by 31 December 2020, and returned to the UK with them.

THE EUSS: AN OVERVIEW

'REASONABLE GROUNDS' FOR NOT APPLYING BY DEADLINE OF 30 JUNE 2021

- ▶ There is not an exhaustive list of acceptable reasons provided by the UKVI. The UKVI use their discretion to decide whether your grounds are 'reasonable'.
- ▶ Examples of grounds which may be considered 'reasonable' are:
 - you had permanent residence status or a residence document that stopped being valid after 30 June 2021, and you did not know you needed to apply to the scheme
 - you are a child, or applying for your child, and you did not know you needed to apply
 - you have, or had, a medical condition which prevented you from applying

THE EUSS: AN OVERVIEW

EUSS FAMILY PERMIT

- ▶ EUSS Family Permits make it easier to travel to the UK.
- ▶ A successful application for an EUSS Family Permit will allow you to join your family member in the UK and allows you to leave and re-enter the UK for 6 months from the date of decision on your application.
- ▶ You may be eligible if you are the family member of someone from the EU, Switzerland, Norway, Iceland or Liechtenstein. Some family members of British citizens may be eligible and you may be able to apply if you are the family member of an eligible person of Northern Ireland.

THE EUSS: AN OVERVIEW

EUSS TRAVEL PERMIT

- ▶ The Travel Permit allows non-EEA nationals who already have settled or pre-settled status to re-enter the UK if their BRP card has been lost, stolen or it has expired.
- ▶ You may apply for a travel permit if all the following apply:
 - you're not from the EU, Switzerland, Norway, Iceland or Liechtenstein
 - you have settled or pre-settled status under the EU Settlement Scheme
 - you must have reported your BRP card to be lost, stolen or expired
- ▶ Apply online and attend a biometrics appointment. Application must be made outside of the UK.
- ▶ If successful, you may leave and re-enter the UK for 6 months from the date of decision on the application



DIFFERENCES BETWEEN EUSS AND APPLICATIONS UNDER APPENDIX FM

EUSS AND APPLICATIONS UNDER APPENDIX FM

SPONSORS

Appendix FM

- ▶ The sponsor must be a British or Irish citizen or have settled in the UK, for example, if they have indefinite leave to remain.
- ▶ Other circumstances: sponsor has protection status

EUSS

- ▶ Someone from the EU, Switzerland, Norway, Iceland or Liechtenstein;
- ▶ An eligible person of Northern Ireland; or
- ▶ Some British citizens.

EUSS AND APPLICATIONS UNDER APPENDIX FM

APPLICANTS

Appendix FM

- ▶ Appendix FM applications are for individuals who are non-European nationals
- ▶ Spouse, civil partner or unmarried partner
- ▶ Fiancé, fiancée or proposed civil partner
- ▶ Child
- ▶ Parent (high threshold to be met)
- ▶ Relative who'll provide long-term care for the sponsor (high threshold to be met)

EUSS

- ▶ Family member of someone from the EU, Switzerland, Norway, Iceland or Liechtenstein (including those with dual nationalities - Lounes case and McCarthy case)
- ▶ Family member of an eligible person of Northern Ireland
- ▶ Family member of a British citizen (Surinder Singh application)
- ▶ Spouse, civil partner or unmarried partner
- ▶ Child or grandchild or great grandchild under 21
- ▶ Dependent child or grandchild or great grandchild over 21
- ▶ Dependent parent or grandparent



EEA CITIZENS AND OPTIONS FOR FAMILY MEMBERS OF RELEVANT EEA CITIZENS

RELEVANT EEA CITIZENS

WHO ARE RELEVANT EEA CITIZENS?

- ▶ EEA Nationals* & Swiss Nationals:
 - Granted pre-settled or settled status under the EU Settlement Scheme;
 - Made a valid application under the EU Settlement Scheme and are waiting for a decision to be made;
 - Exercised free movement of rights in the UK before acquiring British citizenship and retaining EU nationality (Dual nationality);

- ▶ Northern Irish Nationals:
 - Birth Certificate shows that they were born in Northern Ireland; and
 - At least one of their parents was a British citizen / Irish citizen / entitled to reside in Northern Ireland without any restriction on their period of residence; and
 - Meets the criteria to apply for pre-settled or settled status under the EU Settlement Scheme.

- ▶ Irish Nationals:
 - Meets the criteria to apply for pre-settled or settle status under the EU Settlement Scheme.

RELEVANT EEA CITIZENS WITH PENDING APPLICATIONS

WHAT ARE THE OPTIONS FOR FAMILY MEMBERS?

- ▶ EU Settlement Scheme Family Permit
 - Eligible family members of relevant EEA citizens can apply for the EU Settlement Scheme Family Permit if the relevant EEA citizen have made a valid application under the EU Settlement Scheme and are waiting for a decision.
 - EU Settlement Scheme family permits are issued with a validity of 6 months.



EUSS FAMILY PERMITS – FAMILY MEMBERS

EUSS FAMILY PERMITS

WHO ARE FAMILY MEMBERS?

- ▶ Who can apply
 - Family member of an EEA citizen
 - Eligible family members
 - Spouse, civil partner or durable relationship
 - Child or grandchild under 21
 - Dependent child or grandchild over 21
 - Dependent parent or grandparent
 - Includes family members who were adopted
 - Family relationship began by 31 December 2020 (married or in a civil partnership with a Swiss citizen, may be eligible if you got married or entered into the partnership any time before 1 January 2026 and the relationship still applies)
 - Relevant EEA citizen was living in the UK by 31 December 2020
 - Relevant EEA citizen will be in the UK when you apply, or will travel there with you up to 6 months later
 - Relevant EEA citizen must usually have settled or pre-settled status, or have applied and are awaiting a decision

- ▶ Documents required to evidence relationship
 - Spouse or civil partner
 - marriage or civil partnership certificate; or
 - a document issued under the EEA regulations showing the relationship e.g. family permit or residence card
 - If married or formed civil partnership after 31 December 2020 require evidence of relationship before that date

EUSS FAMILY PERMITS

WHO ARE FAMILY MEMBERS?

- ▶ Durable relationship: Differs to Appendix FM's definition of an unmarried partner, Appendix FM is strict, the unmarried partners must have been living together akin to marriage or civil partnership for at least 2 years prior to the date of the application
 - Living together in a relationship akin to a marriage or civil partnership for at least 2 years
 - Evidence of living together
 - Bank statements or utility bills in joint names at the same address
 - Residential tenancy or rental agreements or mortgage statements
 - Official correspondence going to the same address e.g. letters from employers, hospital, doctors
 - Other significant evidence of the durable relationship
 - Joint responsibility for a child – birth certificate or a custody agreement showing cohabiting and sharing parental responsibility
 - Evidence of joint finances, business or commitments - tax returns, business contracts, investments
 - Evidence of regular communication and visits while living apart alongside definite plans concerning the practicalities of living together in the UK
 - Unable to live together as an unmarried couple due to religious or cultural norms, relationship must still be similar to a marriage or civil partnership – evidence of regular communication, visits, holidays, events attended, financial support, joint care of any children the partners have together



EUSS FAMILY PERMITS

WHO ARE FAMILY MEMBERS?

- ▶ May be able to apply if you are a family member of a British citizen
- ▶ May be able to apply if you are family member of an eligible person of Northern Ireland
- ▶ May be able to apply if you are the family member of a 'frontier worker'



UNUSUAL APPLICATIONS – SURINDER SINGH, LOUNES, MCCARTHY

THE SURINDER SINGH CASE

The judgement of the European Court of Justice

- ▶ *Legal principle:* In some circumstances, a British citizen could be treated the same as a citizen of another EEA Member State for the purpose of exercising freedom of movement to take employment in the UK.
- ▶ *What this would mean in practice:* the non-EEA partner of an eligible British citizen would benefit from the much more favourable EEA right to free movement. To be eligible, the British citizen would need to have exercised EEA Treaty Rights through employment or self-employment in another EEA member state.

Criteria

- ▶ Applicant is family member of a British citizen (the sponsor)
- ▶ Currently living with the British sponsor in an EU country, Switzerland, Norway, Iceland or Liechtenstein by 31 December 2020, or the applicant was born or adopted there since then
- ▶ The British sponsor will be in the UK at the time of submission, or will travel with the applicant up to 6 months later



LOUNES AND MCCARTHY CASES

Lounes

The judgement of the European Court of Justice

Ability of family members of EEA nationals to derive EU law rights after their EEA national family member has naturalised in the host member state.

Applies where an EEA national:

- ▶ has exercised Treaty Rights by moving to & residing in a host member state (other than that of which s/he is a national);
- ▶ has then acquired the nationality of the host member state while retaining his/her nationality of origin; and
- ▶ several years later marries a third-country national with whom s/he resides in that member state

Criteria

- ▶ The sponsor started living in the UK by 31 Dec 2020.
- ▶ Have British citizenship, and
- ▶ Their citizenship from the EU, Switzerland, Norway, Iceland or Liechtenstein, and they lived in the UK using their free movement rights before becoming a British citizen

McCarthy

The judgement of the European Court of Justice

- ▶ the Court found that Ms McCarthy, a dual Irish-UK national and her non EEA national spouse could not rely on EU law as she had never exercised a right of free movement, having not lived elsewhere in Europe.

Criteria

- ▶ The sponsor started living in the UK by 31 December 2020.
- ▶ Have British citizenship, and
- ▶ Dual nationality with an EU country, Switzerland, Norway, Iceland or Liechtenstein, and they settled in the UK before 16 July 2012 without using their free movement rights.
- ▶ On 16 July 2012 they had either:
 - a right of permanent residence in the UK
 - a document issued under EEA regulations, for example a residence card



APPLICATION PROCESS FOR EUSS FAMILY PERMITS

EUSS FAMILY PERMIT

APPLICATION PROCESS

- ▶ Apply online for free.
- ▶ Processing times – 15 working days from the date of the appointment or the verification of your identity if using the ID Check app
- ▶ If you do not hold a valid BRP or you are not an EEA or Swiss national with a biometric chip in your passport, you will need to provide your biometrics at a Visa Application Centre.
- ▶ You must apply from outside the UK.
- ▶ If successful, you will be granted leave in the UK for up to 6 months.
- ▶ Can work and study in the UK during this time.
- ▶ Can leave and re-enter the UK as many times as you like.



APPLICATION PROCESS FOR EUSS PRE-SETTLED STATUS

APPLICATION PROCESS FOR EUSS PRE-SETTLED STATUS

FAMILY MEMBERS ON EUSS FAMILY PERMIT (IN UK)

- ▶ After arriving in the UK on the EUSS Family Permit, the next step is to apply for pre-settled status under the EU Settlement Scheme:
 - The general deadline of 30 June 2021 does not apply to family members joining relevant EEA citizens on or after 1 April 2021.
 - However, the family member must apply for the EU Settlement Scheme within 90 days from the date of their arrival in the UK.
 - If the deadline is missed; the family can still apply if they can show 'reasonable grounds' for why they did not apply on time.

- ▶ Required documents (non-exhaustive list):
 - Proof of identity (Passport and EUSS Family Permit)
 - Evidence of eligibility to apply after 30 June 2021 deadline
 - Evidence of relationship to relevant EEA citizen family member
 - Relevant EEA citizen's immigration status in the UK

APPLICATION PROCESS FOR EUSS PRE-SETTLED STATUS (CONT.)

- ▶ The processing time for the EU Settlement Scheme is around 6 to 8 weeks, however applications can take over 6 months.

- ▶ Once the application is submitted, you will be issued with a Certificate of Application which can be used to prove your immigration status.

- ▶ Once the application is successful, you will get a decision letter by email or post confirming whether you have been granted settled or pre-settled status.
 - Pre-settled status:
 - You can reside in the UK for 5 years counting from the approval date.
 - Once you have continuously resided in the UK for 5 years (not absent more than 6 months in a 12-month period), you would be eligible to apply for settled-status.
 - Settled status:
 - You can reside in the UK permanently.
 - You can also apply for British citizenship 12 months after you are granted settled status.



APPLICATIONS FOR PEOPLE ALREADY IN THE UK

APPLICANT HAS RETAINED THE RIGHT OF RESIDENCE

ELIGIBILITY

The sponsor

- ▶ A citizen of an EU country, Switzerland, Norway, Iceland or Liechtenstein who was living in the UK by 31 December 2020, or
- ▶ British citizen who was living with the applicant in the EU, Switzerland, Norway, Iceland or Liechtenstein by 31 December 2020

The applicant

- ▶ An applicant may have 'retained the right of residence' if:
- ▶ Eligible sponsor died
- ▶ Applicant is their child, sponsor died or left the UK, and applicant is in education in the UK
- ▶ Applicant has had a child with them, sponsor died or left the UK, and the child is in education in the UK
- ▶ Sponsor divorced applicant or a member of applicant's family
- ▶ The relationship has broken down permanently because of domestic violence or abuse
- ▶ Applicant must also have lived in the UK with their sponsor before they died, left the UK, or the relationship broke down.

DOCUMENTS FOR APPLICANT TO PROVIDE

Proof of identity:

- ▶ A valid passport
- ▶ A valid national identity card, if applicant is from the EU, Switzerland, Norway, Iceland or Liechtenstein

Additional documents

- ▶ Sponsor's valid passport, or valid national identity card if they're from the EU, Switzerland, Norway, Iceland or Liechtenstein
- ▶ Evidence of applicant's relationship to them, for example a marriage certificate, civil partnership certificate or birth certificate
- ▶ Evidence that applicant has been continuously resident in the UK
- ▶ Deceased sponsor: death certificate, cause of death, evidence of sponsor's UK residence and employment.
- ▶ Applicant or child in education in the UK: death certificate or evidence sponsor left the UK, evidence of UK education at the time of death/ sponsor's UK departure and currently
- ▶ Applicant/ another family member and sponsor previously married/ in a civil partnership: divorce/ dissolution certificate, marriage/ CP at least 3 years, living together for at least 1 year, custody/ right to access child of sponsor, applicant/ another family member experienced difficult circumstances (e.g. domestic violence/ abuse)
- ▶ Applicant being a victim of domestic violence/ abuse: evidence of permanently broken down family relationship due to DV/ abuse, applicant living in the UK when the family relationship broke down.



USEFUL LINKS

- ▶ Appendix EU (Family Permit)
 - <https://www.gov.uk/guidance/immigration-rules/appendix-eu-family-permit>
 - <https://www.gov.uk/family-permit>

- ▶ Appendix EU
 - <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu>
 - <https://www.gov.uk/settled-status-eu-citizens-families>

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



QUESTIONS? COMMENTS?

- ▶ **Q1: I applied for pre-settled status under the EUSS joining my durable partner who has settlement status. I read that proving to be together since ‘two years prior to December 2020’ was a rule of thumb not a strict requirement. However, after three months of sending my application, they got back to me asking for proof of relationship two years prior to December 2020. We have been in a relationship since August 2019, then four months later COVID took place and we could not live together anymore. Hence why we have never been able to live together. What further proof of relationship should I send? We have already sent proof of joint bank account, travels together, money transfers between the two of us, hotel reservations, photos, affidavit from close friends, my NIN related to her address. Would it be helpful to get a sworn letter by a British magistrate?**
- ▶ A durable relationship is defined as the couple having lived together in a relationship akin to a marriage or civil partnership for 2 years or more, unless there are other significant evidence of the durable relationship. The Immigration Rules require a relationship to be durable before 31 December 2020, this means that the expected evidence would be of 2 years living together completed prior to 31 December 2020 (or other significant evidence of a durable relationship prior to that date). As you have not been living together for at least 2 years, you would fall into the later, “unless there are other significant evidence of the durable relationship”. Assuming that you do not have a child together and have not since married or formed a civil partnership, unless you are able to provide further evidence of your durable relationship for example, evidence that you support each other financially, practical examples of how you have started to plan your life together in the UK, the Home Office may refuse your application. An affidavit from you and your partner may strengthen your application, but when looking at evidence the Home Office are likely to place more weight on independent evidence

- ▶ **Q2: Can a British national sponsor an EU national spouse under the Surinder Singh route if you are living outside the UK with a British citizen?**
- ▶ It is possible. You may be able to apply as the family member of a British citizen if all of the following apply to you:
 - you're currently living with your family member in an EU country, Switzerland, Norway, Iceland or Liechtenstein
 - you were living there with them by 31 December 2020, or you were born or adopted there since then
 - your family member will be in the UK when you apply, or will travel there with you up to 6 months later
- This is known as a 'Surinder Singh' application.
- The deadline for most family members to apply was 29 March 2022. You can still apply if you have 'reasonable grounds' for not applying by then – for example because of a medical condition.
- You must apply for a family permit before you can return to the UK. However, an Appendix FM may be a more suitable route for you as your sponsor is a British citizen. Please refer to question 4 below for further advice on this application.

- ▶ **Q3: We are out of the UK because of the birth of our son. What if we are not able to come back to the UK in a years time? We are in Finland now and previously lived in the UK.**
- ▶ This would depend on your status.
- ▶ Those with Pre-Settled Status can stay outside the UK for a continuous 2 year period without losing this status.
- ▶ Those with Settled status can stay outside the UK for a continuous 5 year period (4 years if a Swiss citizen) without losing this status.
- ▶ You should know, as a part of the criteria to apply for Settled status you must not be absent from the UK for more than six months in any 12 month period. An exception to this is a single absence of no more than 12 months for an important reason such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting, or because of COVID-19.
- ▶ As your child was not born in the UK, you should make an application on their behalf under the EUSS.

- ▶ **Q4: I'm British (but lived in Spain since 6 years old) and my partner is Spanish and we live together in Spain since 2019. Do I have to go to the UK before her in order to ask for the EUSS family permit? Do I have to be settled in the UK in order for her to live there too? What do you recommend? I have a British passport.**

- ▶ **A:** As a British National holding a British Passport, the Appendix FM may be a more suitable route for your partner to enter or remain in the UK on the basis of their family life with you.
 - As a British national returning to the UK, you do not need to go to the UK first but you and your partner must meet all the eligibility requirements for such an application. We delivered a presentation on this application previously so you may wish to check with Reunite Families for the relevant slide deck. It is also important to be note that the Appendix FM' is strict on the definition of an unmarried partner, unmarried partners must be living together akin to a marriage or civil partnership for at least 2 years prior to the date of the application.
 - Alternatively, it may be possible for you to sponsor your partner via the Surinder Singh route. Please refer to question 2 for your eligibility for a Surinder Singh application. In essence the British sponsor does not need to go to the UK first as they can travel with their family member up to six months after the application submission.

- ▶ **Q5: To prove a durable partnership, do you need to have lived together for 2 years prior to 31 December 2020?**
- ▶ You do not have to have lived together for two years however you should have either lived together for two years prior to the application, or have other significant proof of your relationship that goes beyond a basic “boyfriend-girlfriend” (or similar) relationship. This can include having a child together, shared financial accounts and expenses, and other similarly consequential commitments. The burden of proof is much higher without the two years, and so an application can be strengthened if you provide a reason for not living together, such as an enforced separation due to COVID travel restrictions, or religious beliefs. The Home Office will have ultimate discretion whether to accept documents in lieu of two years cohabitation.
- ▶ The two year period does not have to have been before 31 December 2020, however you will need to provide proof that you were in a durable relationship before that date. Your two years of living together can be used as proof of a continuing durable relationship.

- ▶ **Q6: If a family member of a relevant sponsor can apply to the EUSS once they are in the UK (if they entered as a visitor and apply within their six months leave as a visitor), are there any particular benefits to them applying for the EUSS family permit prior to coming to the UK? It's not a requirement that you have to apply for the family permit first, is it?**
- ▶ A family member of an eligible/ relevant sponsor may be able to apply for pre-settled or settled status under the EU Settlement Scheme if they are eligible and are either from the EU, Switzerland, Norway, Iceland or Liechtenstein and have a valid passport or national identity card with biometric chip, or are from somewhere else and have a UK issued biometric residence card. If they did not meet the requirements to apply for a pre – settled/ settled status under EU Settlement Scheme outside the UK, an EUSS Family Permit may be an option for the family member to join their relevant sponsor in the UK. It is not recommended to travel to the UK as a visitor and then apply for the pre-settled / settled status under the EU Settlement Scheme once they are inside the UK as those travelling into the UK as a visitor must have a genuine intention to return home after their visit.

- ▶ **Q7 Today I was asked to add other proof of relationship. Do you recommend opening a joint bank account now? And, another thing, can I visit my boyfriend in the UK while my application is pending? Obviously just for a couple of days. I am an EU citizen.**
- ▶ You should be able to travel to the UK whilst your application is pending, however, as you will be entering the UK as a visitor, if you are questioned by the Immigration Officer on entry to the UK you will need to evidence that you intend to leave the UK at the end of your visit.

- ▶ **Q8 I have been awarded settled status with my youngest daughter, and I want to find out if my oldest daughter who is 28 can join us as a family member from a non-EEA country like Gambia**

- ▶ In theory, it is possible for adult dependant children (over 21 years of age) to join their relevant EEA citizen family members (or the spouse of a relevant EEA citizen). Your child would need to provide proof of the family relationship such as a full birth certificate or equivalent documentation. From a practical perspective, there is a high burden to also prove dependency which requires:
 - Your child cannot meet their essential living needs (in whole or in part) without the financial or other material support of the relevant EEA citizen (or the spouse of the relevant EEA citizen);
 - The support has been provided to your child by the relevant EEA citizen (or the spouse of the relevant EEA citizen);

- ▶ The Home Office should not have to consider the reason that the support has been provided, but will have ultimate discretion when deciding whether dependency has been satisfied.

- ▶ **Q9 I have lived in the UK for 30 years and have settled status. My parents are now elderly. If one dies, could the surviving parents join me in the UK?**
- ▶ If you are an EU, EEA or Swiss citizen living in the UK with settled status, your parent can apply for a family permit or to the EUSS only if they're dependent on you.
- ▶ To make an application your parent will need to provide evidence of their relationship to you, using for example a birth certificate or an adoption certificate.
- ▶ Depending on your age at the date of application, your parent may need to provide evidence of their dependence on you. If you as the sponsor are over 18 on the date of application, your parent's dependence on you will be assumed and you will not need to provide evidence of this dependency. However, the UKVI may exercise their discretion and request additional documents as evidence. If you as the sponsor are under 18 at the date of application, your parent will need to provide evidence of their dependence on you when applying.
- ▶ If your parent is required to provide evidence of their dependence on you, they will need to prove that they are dependent on you either financially, using for example, bank statements or money transfers, or that they are dependent on you for personal care or support, using for example, a letter from their hospital.

- ▶ **Q10 If the sponsor's pre-settled status expires, can the family member, who also has pre-settled status, still switch to settled status? Or the family member would need to apply for retained rights of residence?**
- ▶ An individual with a pre-settled status can apply to switch to settled status as soon as they are eligible. This is usually after they have lived in the UK, the Channel Islands or the Isle of Man for 5 years in a row (known as 'continuous residence'). This requirement applies to both the sponsor and the family member.
- ▶ Alternatively, the family member may be able to apply for an EU Settlement Scheme family permit if they previously had the right to live in the UK through an eligible family member (the sponsor), but the sponsor has died, left the UK, or the relationship has broken down. This is called having 'retained the right of residence'.
- ▶ An individual may have 'retained the right of residence' if:
 - their eligible family member (the sponsor) died
 - they are the sponsor's child, the sponsor died or left the UK, and the child is in education in the UK
 - the individual has had a child with the sponsor, the sponsor died or left the UK, and the child is in education in the UK
 - the sponsor divorced them or a member of their family
 - the relationship has broken down permanently because of domestic violence or abuse

▶ **Q11 Do EEA citizens need an EUSS family permit?**

- ▶ EEA citizens may not need an EUSS Family Permit if they were living in the UK by 31 December 2020 and have reasonable grounds for not applying for the EU Settlement Scheme prior to 30 June 2021, they may then submit an application for pre-settled/ settled status under the EU Settlement Scheme outside the UK.
- ▶ If an EEA citizen did not meet the requirements to apply for pre-settled/ settled status under the EU Settlement Scheme outside the UK, an EUSS family permit may be an option for EEA citizens to join their eligible EEA citizen family member (the relevant sponsor) in the UK. It is not recommended to travel to the UK as a visitor and then apply for the pre-settled / settled status under EU Settlement Scheme once they are inside the UK as those travelling into the UK as a visitor must have a genuine intention to return home after their visit.

- ▶ **Q12 My parents (Pakistani) live in the US and have a green card. Can I still apply for them under the EUSS family permit?**
- ▶ If you are a relevant EEA citizen under the EU Settlement Scheme, it is possible for you to sponsor your parents living in the US for a EUSS family permit. You will need to be able to provide evidence to show your parents' relationship to you and that they are dependent on you.
- ▶ The threshold to prove dependency is very high and you must provide evidence that your parents require long term personal care due to their illness, disability or old age; and the care that they require is not available in the USA (the country where they are currently residing) and there are no other persons in the USA who would be able to provide this care.
- ▶ Supporting documents will be required to demonstrate your parents' dependency and UKVI has the discretion to decide whether there is a need for your parents to join you in the UK so as to grant them their application.



FRAGOMEN

www.fragomen.com

Thank You