

Briefing for homeless charities and frontline staff working with EU nationals

❖ Changes to Immigration Rules

In October 2020, the Home Office announced changes to the Immigration Rules to make rough sleeping a ground for refusal or cancellation of permission to stay in the UK. These changes came into force on 1 December 2020. However, the Home Office has confirmed that the new Rules will not be enforced until official Home Office's guidance is published.

Important! These changes do **not** apply to applications made under the EU Settlement Scheme (EUSS). This means that EU nationals resident in the UK by 11pm on 31/12/2020 will not have their EUSS applications refused because they are rough sleeping. They must make their applications by the EUSS deadline (30/06/2021).

However, the new rules will affect those:

- Who are not eligible to make an application under the EUSS and have to make an application under the Immigration Rules;
- New arrivals from the EU after 31 December 2020, that are not eligible to apply under the EUSS.

Advice: Please continue, as usual, supporting EU nationals, who had entered the UK before 31 December 2020 to apply under the EUSS. All applications **must** be submitted before the deadline (30/06/2021). The new ground of refusal does not apply to them.

❖ Access to services during the 'Grace Period' (01/01/2021-30/06/2021)

The UK left the EU on 31/1/2020 but EU law continued to be observed during the "Transition Period". This period ceased at 11pm on 31/12/2020 and was replaced by the "Grace Period", where EU law was replaced by new regulations around access to services for EU migrants, valid until 30/06/2021.

The Grace Period Regulations* do the following:

- Preserve the rights of residence of EU nationals and their family members who are **lawfully resident** in the UK before 11pm on 31/12/2020;
- Give those EU nationals and their family members a chance to apply under the EUSS before the deadline (30/06/2021);
- Preserve the rights those EU nationals and their family members would have under the EEA Regulations (i.e. entitlement to benefits and public services).

A person is "lawfully resident" before 11pm on 31/12/2020 in the UK, if they are:

- Residing lawfully under the EEA Regulations (i.e. exercising treaty rights; working, self-employed, student or self-sufficient) immediately before 11pm on 31/12/2020, or
- Have had a right of permanent residence in the UK, immediately before 11pm on 31/12/2020; or
- Is the relevant family member of the person above.

These regulations cover those who are lawfully resident in the UK and:

- Have not applied yet under the EUSS (it will protect them up until 30/06/2021), or;
- Have submitted an application in time (before 30/06/2021), but they are waiting for a decision, and if refused, until the end of the appeal.

Important! Many homeless/rough sleepers will be in the UK without a right to reside on 31/12/2020. Therefore, they will not be covered by the above regulations (even if they have a pending application). This means that the Home Office will not consider them lawfully present in the UK and may have problems accessing employment or other services such as benefits. However, they are still eligible to apply under the EUSS and they must make an application before the deadline (30 June 2021).

Advice: Please continue supporting EU nationals during the 'grace period', who entered the UK before 31 December 2020, to apply under the EUSS. All applications **must** be submitted before the deadline (30/06/2021).

*The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 <https://www.legislation.gov.uk/ukdsi/2020/9780348212204/contents>