



Access to NHS Services for EU Citizens after 1 July 2021 (England, Scotland, and Wales)

May 2021

EU citizens in the UK with settled status or pre settled status

Entitlement to NHS services

EU citizens, regardless of their immigration status, will be entitled to register with a GP and receive NHS primary care services free of charge. See [Box 3: Entitlement and access to NHS primary care](#) for more details.

To access NHS secondary care services free of charge, a person must be considered 'ordinarily resident' in the UK (see [Box 1: The 'ordinarily resident' test](#)). EU citizens with settled status and those granted pre settled status under the EU Settlement Scheme (EUSS) will be considered 'ordinarily resident' in the UK, provided their residence is adopted voluntarily and for a settled purpose.¹

Those who are awaiting the outcome of an application submitted on or before 30 June 2021 will remain entitled to free secondary care, subject to the ordinarily resident test, until the outcome of the application is known.²

Accessing NHS secondary care services

When accessing NHS secondary care services, EU citizens may be required to demonstrate that they are 'ordinarily resident' – i.e., living lawfully, voluntarily and for a settled purpose – in the UK. In most cases, patients will be asked to do this before accessing an NHS service³ by providing evidence that their residence is:

- **Lawful** - demonstrated by providing an EUSS share code, which will enable the NHS trust to establish a person's immigration status. NHS records (the NHS Spine) for those granted EUSS status will be updated with a 'green banner' indicating that they have been granted settled status, or an 'amber banner' indicating they have been granted pre-settled status, with an expiry date. On the expiry date the banner will turn to red indicating the person is 'likely chargeable for NHS services'. Department of Health and Social Care (DHSC) has guidance on when EU citizens [may be living lawfully in the UK](#).
- **For 'a settled purpose'** - defined as 'the purpose for living in the UK has a sufficient degree of continuity to be described as settled'. NHS trusts will ask the patient to provide documents, such as a passport, a national ID card, a driving licence, water, gas, electric or Council Tax bills, bank or building society statements, phone bill (landline), or mortgage or rental agreement, to establish this. DHSC's ['Settled Purpose Tool'](#) provides more details on the key elements of settled purpose.
- **Voluntarily** - DHSC guidance states that it will be rare for a person not to be in the UK voluntarily⁴.

¹ Department of Health and Social Care, 'Guidance on implementing the overseas visitor charging regulations', pp 24-26
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/977345/Main_Guidance_post_February_2021_v3.pdf

² Ibid, p 74

³ See here for an example letter:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777484/letter-patient-information-request.odt

⁴ DHSC, 'Guidance on implementing the overseas visitor charging regulations', p 25.

Areas of concern

- 'Ordinarily resident' checks cause delays in receiving NHS services and treatment, with those who struggle to access relevant paperwork experiencing longer delays. Doctors of the World research on migrant patients and NHS charging found the NHS charging policy is too complex for NHS trusts to apply correctly and trusts routinely withheld NHS services and treatment incorrectly. In 22.2% of cases, trusts incorrectly charged the patient for treatment that should have been free.⁵
- NHS records of the those granted pre-settled status will be updated on an 'expiry date' with a red banner indicating that the patient is 'likely chargeable for NHS services'. There is currently no mechanism for information on the NHS Spine to be automatically updated when a person is granted EUSS status.

Box 1: The 'ordinarily resident' test

Entitlement to NHS secondary care services without charge is based on being 'ordinarily resident' in the UK.

Four-fold test to verify the person:

- is lawfully in the UK
- is here voluntarily
- is properly settled here for the time being
- in the case of an EU or EFTA citizen living in the UK on or before 31 December 2020, has by 30 June 2021 applied for/been granted status under the EUSS.

A person who is not 'ordinarily resident' in the UK is considered an 'overseas visitor' regardless of the length of their stay in the UK.

DHSC has guidance on when EU/EFTA nationals [may be living lawfully in the UK](#) and [whether an individual is properly settled in the UK](#).

Source: [DHSC 'Guidance on implementing the overseas visitor charging'](#)

EU citizens in the UK before 1 January without settled status or pre settled status

Entitlement to NHS services

EU citizens, regardless of their immigration status, will be entitled to register with a GP and receive NHS primary care services free of charge. See [Box 3: Entitlement and access to primary care](#) for more details.

In June 2021, Doctors of the World UK conducted an online survey with both EU citizens and supporting organisations.

Amongst the key findings:

- 18% of the participants mentioned encountering issues when applying to the EU Settlement Scheme with a large majority mentioning issues with documentation and the website as the key reasons behind their difficulties
- 5% mentioned being asked to prove their immigration status when registering with a GP
- Amongst those asked to prove their immigration status when accessing hospital care, 22% were then unable to receive treatment due to issues in verifying their status.

⁵ Doctors of the World UK (2020), 'Delays and Destitution: An Audit of Doctors of the World's Hospital Access Project (July 2018-20)' <https://www.doctorsoftheworld.org.uk/wp-content/uploads/2018/11/Delays-and-destitution-An-audit-of-Doctors-of-the-Worlds-Hospital-Access-Project-July-2018-20.pdf>

From 1 July 2021, EU citizens without either settled or pre settled status will not be considered 'ordinarily resident' in the UK for the purposes of healthcare entitlement and therefore will not be able to access NHS secondary care services free of charge. They will be charged 150% of the [NHS tariff](#) for services received.⁶

Those who are awaiting the outcome of an EUSS application submitted on or before 30 June 2021 will remain entitled to free healthcare, provided they meet the other requirements of the 'ordinarily resident' test, until that outcome is known⁷.

In the case of EUSS applications made on or after 1 July 2021 (late applications), the person is non chargeable from the date of their application until such time as the outcome of that application is determined by the Home Office. When status is granted, the person remains non-chargeable from the date on which the late application was made. Charges incurred before the late application was submitted will still apply. Any charges paid for treatment received after the late applications was made will be refunded⁸.

Where the Home Office refuses a late application, the person is considered as a chargeable patient and charges may be recovered for services provided during the period when the late application was under consideration⁹.

Some NHS secondary care services are exempt from all charges and some individuals are exempt from all charges regardless of whether they pass the 'ordinarily resident' test (see [Box 2, 'Exempt NHS services and individuals'](#) for more details).

Box 2: Exempt NHS services and individuals

Some NHS secondary care services are exempt from charges and some individuals are exempt from all charges regardless of whether they pass the 'ordinarily resident' test.

Exempt services include accident and emergency (A&E) services, family planning services, diagnosis, treatment of specified infectious diseases (including COVID-19 testing, treatment and vaccination) and treatment needed as a result of torture, female genital mutilation, domestic violence or sexual violence.¹ See [DHSC guidance](#) for full list of exempt services.

Exempt individuals include:

- refugees (those granted asylum, humanitarian protection or temporary protection under the immigration rules) and their dependents.
- asylum seekers (those applying for asylum, humanitarian protection or temporary protection whose claims, including appeals, have not yet been determined), and their dependents.
- individuals receiving support under section 95 of the Immigration and Asylum Act 1999 (the 1999 Act) from the Home Office.
- Scotland and Wales: Refused asylum seekers
- England: Failed asylum seekers, and their dependents, receiving support from the Home Office or under Part 1 of the Care Act 2014.
- Children who are looked after by a local authority.
- Victims, and suspected victims, of modern slavery
- Those granted leave to enter the UK outside the immigration rules.
- Anyone receiving compulsory treatment under the Mental Health Act
- Prisoners and immigration detainees.

Source: [DHSC 'Guidance on implementing the overseas visitor charging'](#)

⁶ DHSC, 'Guidance on implementing the overseas visitor charging regulations', pp 73-75.

⁷ Ibid, p 74.

⁸ Ibid, p 74.

⁹ Ibid, p 74.

Accessing NHS secondary care services

EU citizens not considered 'ordinarily resident' in the UK will be charged 150% of the tariff for any secondary care service received (unless the service or the individual is exempt from all charges, see [Box 2, 'Exempt NHS services and individuals'](#)).

If the NHS trust considers the service to be 'immediately necessary' or 'urgent' the service will be provided, even if the patient has not paid in advance. The NHS trust will then take steps to recover the charges from the patient. Non urgent services will not be provided unless the patient has paid the estimated full charge in advance. For more information on 'immediately necessary', 'urgent' and 'non urgent' services, see [DHSC Operational framework on upfront charging](#).

People who have made late EUSS applications can demonstrate their entitlement to receive secondary care services free of charge from the date of their application until such time as the outcome of that application is determined by the Home Office by providing a Home Office Certificate of Application. If the patient is unable to provide it at the time of treatment, NHS trusts can contact the Home Office for confirmation. The status check will be valid for 6 months.¹⁰

The [DHSC NHS charging guidelines](#) provide information on how people exempt from all charges due to vulnerability can evidence their exemption.¹¹

Areas of concern

- EU citizens eligible for status under EUSS who are yet to make an application, and those who make unsuccessful applications will be charged for secondary care services. At 150% of the cost of the NHS tariff, individuals can be charged [hundreds of thousands of pounds for treatment](#). Those likely to be impacted include people [facing social exclusion of some kind or whose independence or autonomy is reduced](#), such as children in care and care leavers, victims of domestic abuse and modern slavery, and people experiencing homelessness and migrant Roma communities. As the EUSS is primarily a digital system, people who are digitally excluded will also be more likely to be impacted.
- EU citizens who are not entitled to free secondary care services are at risk of having services - including treatment that is 'immediately necessary' or 'urgent' - withheld or delayed. Doctors of the World research found the NHS charging policy is too complex for NHS trusts to apply correctly and trusts routinely withheld treatment. Patients requiring an 'urgent' or 'immediately necessary' NHS service faced a delay of 36 weeks on average, with the longest delay in receiving treatment at 2.5 years¹².
- EU citizens who have made a late EUSS application and are unable to evidence the date of their application or provide a Certificate of Application may be charged for NHS services received whilst the application is outstanding.

EU citizens who have arrived in the UK after 1 January 2021

In order to receive free NHS secondary care services, EU citizens arriving in the UK after 1 January 2021 will need to:

- have paid the immigration health surcharge (IHS) as part of an application for a visa. People applying for visa for six months or less are not able to pay the immigration health surcharge.
- hold a visa exempt from the IHS (for example, visas for health & social care workers)
- have indefinite leave to remain.

¹⁰ Ibid, p 74.

¹¹ Ibid, pp 45-49

¹² Doctors of the World UK (2020), 'Delays and Destitution: An Audit of Doctors of the World's Hospital Access Project (July 2018-20)'

Individuals who have paid the IHS and those on a visa exempt from the IHS are not entitled to access NHS-funded assisted conception services free of charge¹³.

Individuals who can evidence their healthcare cost will be covered by the EU country they reside in will not be charged for certain services¹⁴:

- **Individuals with a valid EHIC** (or Provisional Replacement Certificate) can receive 'all treatment that is medically necessary before their planned date of return' free of charge.
- **Pensioners, posted or frontier workers, and their family members** with an S1 form are eligible for all NHS secondary care services, except for assisted conception services.
- **Individuals seeking planned treatment in the UK who have been issued with an S2** will receive pre-authorised treatment free of charge.

Areas of concern

- *EU citizens in the UK for 6 months or less, and those who fail to pay the IHS when required, will be charged 150% for most secondary care services unless an exemption applies, or their healthcare costs are covered by an EU country (for example those with a valid EHIC or an S1 or S2 form).*

NHS debt and data sharing

NHS charges over £500 that are not paid within two months, are reported to the Home Office. NHS trusts also use debt collection agencies to recover unpaid charges. A patient can agree a payment plan with a trust when they cannot meet repayment in full. Details of outstanding charges continue to be reported to the Home Office until it has been cleared¹⁵.

DHSC guidance advises that NHS trusts should not employ debt collection agencies to recover debt from individuals who are 'destitute or genuinely without access to any funds', for example 'destitute undocumented migrants'. Trusts can conclude that it is not cost effective to pursue payment and write the debt off in their accounts. This does not mean that the debt is waived and the unpaid debt will still be reported to the Home Office¹⁶. However, [many Trusts routinely use debt collection agencies to recover costs from destitute patients](#).

Patent data shared with the Home Office under the NHS Charging regulations is [used by Immigration Enforcement for immigration compliance and enforcement purposes](#). Outstanding NHS charges reported to the Home Office will not affect EUSS applications.

Areas of concern

- Destitute individuals being pursued for NHS debt
- NHS trusts' approach to debt repayment plans
- Patient information being used for immigration compliance and enforcement purposes
- Patients fear impact of NHS charges on immigration status and avoid NHS services

¹³ 'Healthcare for EU citizens living in or moving to the UK' <https://www.gov.uk/guidance/healthcare-for-eu-and-efta-nationals-living-in-the-uk#moving-to-the-uk>

¹⁴ Ibid

¹⁵ DHSC, 'Guidance on implementing the overseas visitor charging regulations', p 121; DHSC, 'NHS patient debt: guidance on administration and data sharing' <https://www.gov.uk/government/publications/nhs-patient-debt-guidance-on-administration-and-data-sharing>

¹⁶ DHSC, 'Guidance on implementing the overseas visitor charging regulations', p 121.

BOX 3: Entitlement and access to primary care

A patient does not need to be 'ordinarily resident' in the UK to be eligible for NHS primary medical care. Anybody in England may register and consult with a GP without charge. All individuals, whether lawfully in the UK or not, are eligible to register with a GP practice in England, Scotland, and Wales.

When a patient applies to register with a GP practice, the GP practice can refuse an application to join a practice list if the practice list is closed to new patients, the patient lives outside the practice boundary, or for other reasonable grounds. There is no requirement for registering patients to provide produce identity or residence information, although practices may ask for proof of address and identity to track medical records. If a registering patient cannot provide these documents is not be considered reasonable grounds to refuse to register a patient.

EU Citizens with a valid EHIC will be asked to provide details of their EHIC (or PRC) when registering with a GP.

General Practices are also under a duty to provide emergency or immediately necessary treatment, where clinically necessary, and 14 days of further cover following provision of immediate and necessary treatment irrespective of nationality or immigration status.

Research by Doctors of the World shows that 1 in 5 patients accessing its clinic were refused GP registration despite being entitled to register with a GP and receive primary care free of charge. The most common reason for refusing a registration was lack of proof of identity (49%), followed by lack of proof of address (29%), and an immigration status query (28%)¹. This reflects poor understanding of entitlement to NHS primary care services amongst in GPs, particularly for people who are not British citizens. NHS England has produced GP access cards to support patients and primary care to better understand migrant patient's right to NHS primary care service.

Sources

NHS England, 'Primary Medical Care Policy and Guidance Manual'

Scottish Government, 'Patient Registration – A Guide for Healthcare Providers of General Medical Services in Scotland'

BMA refugee and asylum seeker health resource

Doctors of the World, 'Registration Refused: A study on access to GP registration in England Update 2018'