

EU Settlement Scheme

EUSS and Criminality

Information for Local Authorities

11th February 2021



Aims and objectives



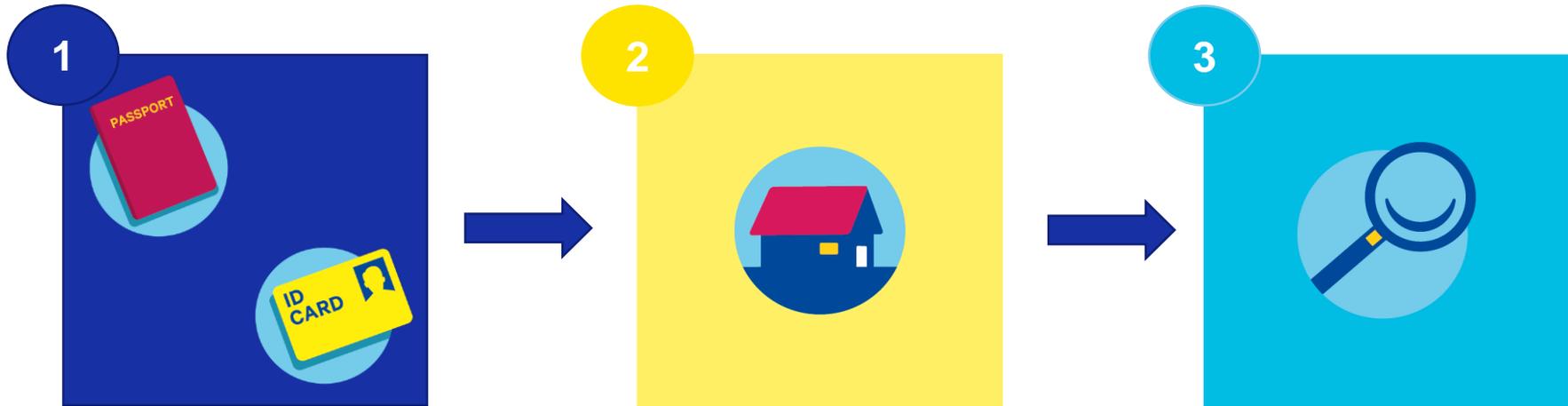
What you will take away from today:

A better understanding of the EUSS criminality check

A clear understanding of how criminality affects applications to EUSS

Where to go for further support

How to apply to the scheme



PROOF OF IDENTITY

Use a valid passport or national identity card to verify your identity*

PROOF OF RESIDENCE

Provide your National Insurance Number

CRIMINALITY CHECK

Declare any criminal convictions

There are three options for completing this stage:

- 1. ID Verification App; 2. Post;*
- 3. Appointment at ID Scanner location*

A wide range of alternative evidence can be used if you don't have a NINO.

This will not affect the vast majority of EU citizens.



- There are provisions within the EUSS in relation to criminality in order to protect the public and to protect the integrity of the EUSS
- The criminality provisions apply to **all** applicants to the EUSS

What Do We Check?



- Applications are subject to a check against the Police National Computer (PNC), where the applicant is aged 10 or over, and the Warnings Index (WI).
- Caseworkers can where appropriate consider evidence of criminality that they encounter on the PNC or WI even if that evidence was not declared by the applicant.
- From information provided by the applicant and obtained from the PNC or WI, UK Visas and Immigration must determine whether the application is to be referred to Immigration Enforcement (IE) for full case by case consideration of the individual's conduct.



- Rule EU15
- Applications will be refused where any of the following apply at the date of decision:
 - (a) The applicant is subject to a **deportation order** or to a decision to make a deportation order; or
 - (b) The applicant is subject to an **exclusion order** or **exclusion decision**.



- Rule EU 16
- An application may be refused either:
 - on grounds of public policy, public security or public health for conduct committed before 1 January 2021
 - on the ground that the decision is conducive to the public good for conduct after 31 December 2020

Criminality Threshold Continued



- EU Citizens may be deported where justified on grounds of public policy, public security or public health under the Immigration (European Economic Area) Regulations 2016.
- This requires an assessment that the individual poses a genuine, present and sufficiently serious threat to the fundamental interests of society and a proportionality assessment. If deportation is not appropriate IE will implement the appropriate grant of status under the EU Settlement Scheme, consistent with the Withdrawal Agreement, subject to the applicant meeting the relevant eligibility requirements.

Declaration of Criminality



- Applicants (aged 18 or over) are required to provide information about previous criminal convictions in the UK and overseas and are only required to declare past criminal convictions that appear in their criminal record in accordance with the law of the State of conviction at the time of the application.
- There is no requirement to declare spent offences, cautions or alternatives to prosecution for example fixed penalty notices for speeding.
- Applicants (aged 18 or over) are also required, as in other immigration applications, to declare whether they have any been involved in any terrorist related activities, war crimes, crimes against humanity or genocide.

Declaration of Criminality Continued



- The online application form requires all applicants to declare any convictions for violent or drug offences. Those who give a positive response will be required to answer further questions about overseas offending (limited to those circumstances where it may be proportionate to take deportation action); UK offences in the last 12 months (which may not yet be recorded on the PNC); and pending prosecutions.
- An application may be refused if the Secretary of State is satisfied that it is proportionate to refuse the application where false or misleading information has been submitted

Criminality and Applications to EUSS



- Young people with criminal records can apply to the EUSS
- Applications to the EUSS with a pending prosecution will be paused where a conviction could lead to refusal on suitability grounds, provided it is reasonable and proportionate to do so
- Under-18s are not subject to automatic deportation provisions. But they can be recommended for deportation by a sentencing judge, or considered for deportation on grounds of being non-conducive to the public good, under the provisions of the Immigration Act 1971.
- In the case of under-18s, deportation will not usually go ahead until after the child has reached the age of 18. This is unless there are adequate reception arrangements that can be made in the child's home country, or in cases where the child has adult family members with whom they are to be removed to the same country in due course.

Applications in Custody



- Applications can be made to the EUSS while in custody.
- A sentence of imprisonment breaks the continuity of UK residence required for status under the scheme, where residence has not previously been acquired. Periods of imprisonment do not therefore count towards an applicant's eligibility for status under the EUSS
- Imprisonment does not include a suspended sentence (unless a court subsequently orders that the sentence or any part of it is to take effect), but does include detention in an institution other than a prison (including, in particular, a hospital or an institution for young offenders)

Further Sources of Information



EU Settlement Scheme- Suitability Guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948009/euss-suitability-v4.0ext.pdf

Public Policy, Public Security or Public Health Decisions

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948136/eea-public-policy-decisions-v4.0ext.pdf

Guidance for Local Authorities and HSCTs



Available at:

<https://www.gov.uk/government/publications/eu-settlement-scheme-looked-after-children-and-care-leavers-guidance>

- Provides information on how local authorities/HSCTs can help LACs and Young People apply to EUSS
- Explains role of LAs/HSCTs
- Pre-application checklist – things to consider before making the application and what you need to provide with an application
- Further sources of information and contacts



Ongoing support - grant funding



- On 6 March 2020, the Home Office announced £8 million of funding to help vulnerable EU citizens apply to the EU Settlement Scheme. This will ensure important information continues to get through to those hardest to reach.
- [72 organisations](#) across the UK have been funded for the 2020-21 period.
- GFOs are accredited by the Office of Immigration Services Commissioner (OISC)
- Complex cases can be referred to grant funded organisations

Any Questions?



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Home Office

EU Settlement Scheme