The FAQs below are general questions based on the “Free Movement in the UK and Brexit” session.

Please note, the answers provided are general advice for reference purposes only and should not be taken as specific advice based on your individual circumstances.

Should you require more tailored advice, please contact a local immigration specialist or use one of the following organisations for further assistance:

UKVI contact centre: 0300 123 2241 (This is a charged service)
HMRC: https://www.gov.uk/contact-hmrc
Citizens Advice Bureau: https://www.citizensadvice.org.uk/

FAQs

1. I am a Spanish national and I have been in the UK for 17 years. In the 85 page application for a document certifying permanent residence there is a requirement to list all the travel that has been done since entering the UK.

   How precise do I need to be?

   I used to travel to Europe once a month for work, and I have no way to list all the travel I have done. What shall I do?

   You should provide as much information as you are able. You will be under a duty to confirm that all information provided is to the best of your ability and knowledge.

   Unfortunately, there is no easy answer to the question of how to deal with your travel history from many years ago. You simply have to provide the information that you have, or make reasonable steps to obtain it – for example, you may be able to get the information from the University, or from a previous employer if applicable. However, it is only really an issue if you are close to the maximum number of days’ absence (i.e. if you have periods of absence of more than 6 months in total in any of the last five years).

   If you are concerned by your level of absence, you should seek specific advice.

2. What document is acceptable to prove that I have been living in the UK?

   I don’t have any old bank statement / payslip or old utility bills going back more than a couple of years.

   Shall I contact my old employers / the tax office / my banks…?

   There is no one document that will prove that you have been living in the UK. However, you are correct to be thinking about what documents you could use to demonstrate that you must have been in the UK at the relevant times. The guidance to the application forms also gives information on the evidence to be provided.

   In any event, I would advise that you contact your bank and/or HMRC for copies of old payslips/P60s etc. You could also produce a statement of mortgage payments or rental payments, for example.

   I would also advise that you submit a cover letter with your application which explains
why you have submitted the documentation that you have. In this cover letter you can state which documents you have included to satisfy a particular requirement. There is no obligation to submit a cover letter, but I do think it will assist the UKVI officer when they are considering your application.

3. What document is most likely to be accepted by the Home Office for proof of living in the UK?

Any or as many as possible of those in question 2. The important point is to be able to provide documentation that satisfies the relevant condition. Unless a specific document is requested, you should seek to provide the proof as best you can.

Also consider including a cover letter with your application documents.

4. If I am made redundant after receiving my document certifying permanent residence, can I still stay in the UK? Do I need to prove that I can support myself or anything else?

Based on the rules at this stage, you can continue to stay in the UK. You will only lose permanent residence by absence from the UK of more than 2 years or on grounds of public policy, public security or public health.

You will not need to prove that you can support yourself, but may have issues in relation to the claiming of benefits/income support etc.

Please take specific advice in this regard.

5. If one of my children is a British citizen, does that help my case / make the application process easier?

It doesn't necessarily make the process easier, but it could help your case as, in certain circumstances, a non-British parent can rely on the British citizenship of their child to remain in the UK. However, this right would not be linked to permanent residence and is dealt with under the UK's Immigration Rules.

If you are considering this route, please obtain specific legal advice.

6. Is there an “Executive Route” that can be used when applying for a document certifying permanent residence or citizenship (e.g. for people of certain income/tax contribution etc.)?

No, there is no such option based on your individual circumstances or financial means, for example.

However, you can obtain a quicker decision if you are happy to pay the increased fee of submitting your application via a Premium Service Centre (the fee is currently £500). Decisions on applications for a document certifying permanent residence must be made within 6 months and are usually made within 3 to 4 months. As such, I do not believe it is necessary to apply using the Premium Service Centre.

7a. What should I consider/do when applying for British citizenship to not void my Italian citizenship?

You would need to speak with an Italian immigration specialist or the Italian embassy for this specific advice.

7b. I understand that dual-citizenship is possible with another EU country. Is it likely that I will have to surrender either my British (yet to be acquired) or German citizenship when the UK leaves the EU?
Based on the current law, you would not have to give up your German citizenship as the UK allows you to have dual or multi-nationality. You could therefore continue to have both German and British citizenship.

However, you would need to seek advice specific to your home country on the issue of dual nationality post-Brexit.

With many EU countries, it is only possible to have dual nationality as both countries are members of the EU. Therefore, it is possible that after the UK leaves the EU, you may need to decide whether you want to keep your German citizenship, or give up your British citizenship.

8. I have been resident in the UK for 12 years and have been working for 10 years. In the past year I have been abroad for more than 90 days, but this was work-related. How should I best approach applying for a document certifying permanent residence?

The 90-day requirement is specific to citizenship, not permanent residence.

For citizenship you cannot have been out of the UK for more than 90 days in the last year or 450 days over the last five years (different periods apply if you are using the 3-year marital route).

For permanent residence you cannot have been out of the UK for more than 6 months in total in any year.

Therefore, for permanent residence, your absence of more than 90 days may be acceptable, so long as it is not more than 6 months in total.

For citizenship, depending on the number of days’ absence and what links you had to the UK during that period, it may be that your absence is disregarded.

Obtain specific legal advice in this regard to fully assess your options.

9. Is there currently – or has there been any precedent in British law for – differential treatment of British citizens and Non-British UK residents?

I am only able to comment on employment related issues.

There is specific legislation in the UK which prohibits an employer from discriminating someone on the basis of their race. Unfortunately, however, that does not mean that such discrimination does not take place and affected individuals therefore lodge Employment Tribunal claims to deal with this.

Please seek specialist advice about any other areas of law.

10. My son was born in the UK in 2007, but at the time when he was born I hadn't been in the UK for 5 years or more. In this case do I need to apply for a document certifying permanent residence for my child too?

In such a situation, I believe that you would need to apply for a document certifying permanent residence for your child unless you or the child's father were a British citizen or settled in the UK at the time of his birth.

However, your child might also be able to apply for British citizenship on the grounds that they were born in the UK and that you now have “settled” status by having obtained permanent residence.

Obtain specialist advice on this point.

11. What will happen if I don't apply for a document certifying permanent residence? Can I
still work for the University or a different University?

As long as the UK remains a member of the EU you will have an automatic entitlement to work in the UK, with any employer.

However, after Brexit the rules on right to work will very likely change.

We do not yet know what the law will be after Brexit, but it is sensible to apply for proof of your current immigration status (i.e. to apply for a document certifying permanent residence) as soon as possible.

There will come a stage when the UK needs to decide whether or not individuals are able to remain the UK and to do this they will need to assess how long an individual has been in the UK and, perhaps, in what capacity. If you already have your document certifying permanent residence, for example, you will be in a much stronger position than those who do not, as they will not have evidence of their residence.

12. I have been in the UK for just over 20 years, initially as a student and then as a worker. I married a British citizen 11 years ago and we have three children, all with a British passport.

Do I have to apply for a document certifying permanent residence to remain in the UK?

I don’t particularly want to apply for British citizenship, unless I have to in order to remain here.

Until the UK leaves the EU there will be no change to your immigration status, i.e. you will be able to continue to reside and work in the UK until the Brexit negotiations have been completed.

After Brexit, we do not know whether or not you will be able to remain in the UK simply because you are European. However, we anticipate that those with permanent residence (proven by a document certifying permanent residence) will be entitled to stay and work in the UK.

If you are a British citizen, you will not be affected by Brexit at all and will always be able to live and work in the UK.

It is likely therefore that you will either need to have a document certifying permanent residence or citizenship to remain the UK.

However, please obtain specialist advice on whether or not your British children will entitle you to a right to remain in the UK under the UK immigration laws.

13. I was unemployed for two weeks in 2008. I was actively looking for work but I don’t have any documents to support it. I didn’t register with the job centre. Is this going to have a big impact on my application?

This could potentially be an issue as you did not register as a jobseeker during those two weeks, which UKVI advise as a minimum requirement. Also, as you do not have any evidence of your job searches it will be difficult to prove that you were, as a matter of fact, a jobseeker.

Obtain specialist advice on this point but do also get as much evidence of having been a jobseeker as you can.

14. As you can imagine I don’t have records of all my holidays abroad for every year since I came into the UK. For example, I can only give estimated dates for 2006-2011. How much of an issue is this going to be? I’ve never been outside the UK for more than 3 weeks at a time, usually less, and certainly not more than 20 days in the whole year.
The relevant period is the last five years. If you have information for those years that should be sufficient. The travel history is only really a concern where you have exceeded the maximum days' absence from the UK (i.e. the 450/90 days figures for citizenship or 6 months for permanent residence).

Please see the above answers as well.

15. I want to apply for a document certifying permanent residence, but I really can't afford to give up my passport while UKVI are considering my application. Is there any way that I can keep my passport?

If you are applying as the Qualifying Person, you can use the passport return service. This is a service whereby you take your passport to a local provider who copies it, certifies that copy and then sends it to UKVI on your behalf. You therefore do not have to send your passport and can keep it at all times. There is a fee for this service.

Alternatively, if you are from a country which allows you to have both a passport and an ID card, you could send your ID card instead. That will still be sufficient as your photographic proof of identity, but would also allow you to travel using your passport which you can retain.

Finally, if you need your passport for work related reasons. You can submit your passport with your application and then send a covering letter requesting that your passport is sent back to you as quickly as possible. This option is at UKVI's discretion and there is no obligation on them to say yes.

16a. I came into the UK in 2010, as a student. I studied for three years and managed to get a job straight after my degree. I therefore started working in 2013 and have been working ever since.

As I have been in the UK for more than 5 years, I want to apply for a document certifying permanent residence. I think I have 3.5 years as a worker (2013 to now) and then 1.5 years as a student but have heard something about needing sickness insurance? Is that correct? What is this insurance?

Yes, it is correct.

If you want to use a period of time when you were a student (or self-sufficient) to count towards your 5 years' continuous residence, you must have held comprehensive sickness insurance at that time.

Therefore, when you were studying from 2010 to 2013, you needed to either have the European Health Insurance Card (the EHIC - which is an agreement between the home country and UK that the home country will refund any medical costs) or private medical insurance.

If you did not have either the EHIC or private medical insurance then your time as a student will not count towards your continuous residence. In your situation you would therefore need to wait another 1.5 before having 5 years' qualifying continuous residence and so obtaining permanent residence.

Please also note, if you want to apply for British citizenship based on a period of time when you were a student then you must have held private medical insurance, not just the EHIC.

If you are not relying on a period of time when you were a student to count towards the 5 year (permanent residence) or 6 year (citizenship) residence requirement, you did not need comprehensive sickness insurance and so this requirement does not apply to you.
16b. Can I apply for this comprehensive sickness insurance now and get it to cover me for that earlier period when I was a student?

I do not believe that you would be able to do this. An insurer will only insure you for a future period. They would not be able to verify that a past period was covered by insurance.

Please obtain specific advice on this point.

16c. What about if I was studying on a PhD course and was working at the same time as studying? Do I still need comprehensive sickness insurance as a student or can I just say that I was a worker instead?

So long as your work was "genuine and effective", i.e. so long as it was a principal and substantive part of your PhD, you will be able to rely on your status as a worker during that period. You would therefore not need to have comprehensive sickness insurance.

However, if your work during that period was only a few hours on a casual basis, for example working in a local restaurant, it will not be classed as "genuine and effective" and so would not qualify as worker status. You would therefore need to have comprehensive sickness insurance as a student.

17. I am an EEA national. What happens if I won't have five years’ continuous residence in the UK by the time we get to April 2019? Will I have to leave the UK?

It is unlikely that you will be forced to leave the UK at the end of the negotiation period in April 2019. The Conservative government has already indicated that it wishes to protect the status of EEA nationals in the UK, so long as the same rights are guaranteed for UK citizens in Europe. This will be a key factor in the negotiations.

As such, and as there is not yet certainty in this area, it is at least possible that EEA nationals could be treated in the same was as non-EEA nationals and required to obtain a visa before entering and working in the UK.

Both the UK and EU have commented that the protected status of individuals is an important part of the negotiations, and that it will be addressed as one of the first points. Therefore, I anticipate that we will know more about this in the next six months.