

# EU Settlement Scheme in Wales (September 2022)

Y Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol | 30 Ionawr 2023  
Equality and Social Justice Committee | 30 January 2023

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## Introduction

The EU Settlement Scheme (EUSS) is the UK Government's scheme to which European citizens must apply in order to stay in the UK after Brexit.

Citizens' rights form key parts of agreements reached between the UK, the EU and other European countries as part of Brexit. The rights of European citizens in the UK are guaranteed by agreements with the EU, Norway, Iceland, Liechtenstein and Switzerland.

The Welsh Government must adhere to these agreements and the Welsh Government's Minister for Social Justice, Jane Hutt, is responsible for EUSS-related activities in Wales.

Statistics on applications to the EUSS are recorded by the UK Government. High level statistics are published monthly and detailed statistics, including Wales-level data, is published quarterly.

This report presents EUSS statistics relating to Wales up to 30 September 2022. Quarterly reports are provided to the Committee to inform its monitoring of this issue.

## 1. Background

Following the UK's exit from the EU, European citizens who were living in Wales before 31 December 2020 must have applied to stay by 30 June 2021.

This applies to citizens from EU Member States, Norway, Iceland, Liechtenstein and Switzerland but not to Irish citizens, who are exempt under separate arrangements. The number of citizens from these countries living in the UK is unknown, meaning nobody knows how many applications there should be.

Since its launch, almost 6.9 million applications have been submitted to the EUSS. Successful applicants are granted a status of either 'settled' or 'pre-settled'. For background, see Senedd Research's previous article.

## 2. Latest quarterly statistics

### Applications received by 30 September 2022

Up to the 30 September, 110,000 applications were received from Wales, including 19,340 applications for those aged under 18, against an estimated 95,000 eligible citizens who needed to apply.

### Applications that received a decision

107,590 applications received a decision by the cut off for the statistical reporting and are referred to as 'concluded applications'.

### Successful outcomes

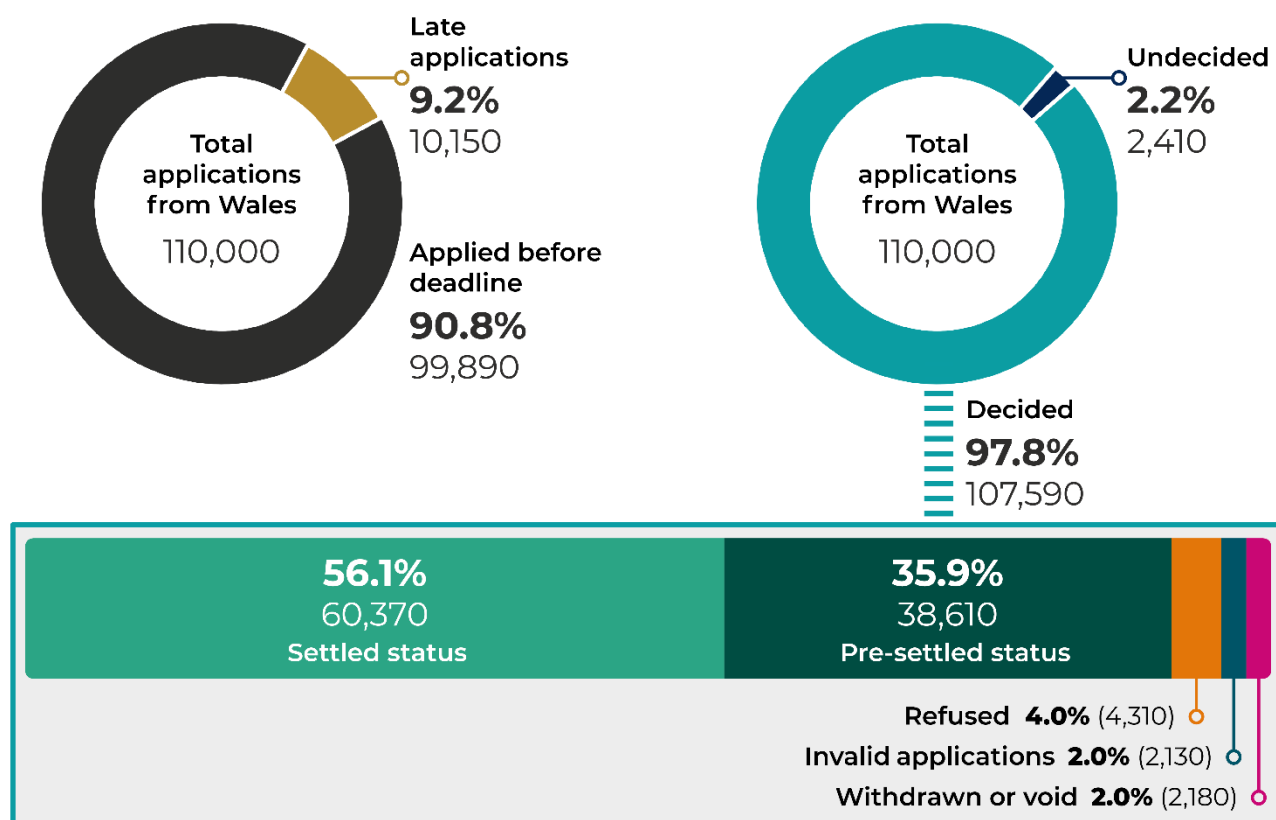
Successful applicants are granted a status of either 'settled' or 'pre-settled'. Both settled and pre-settled citizens can work in the UK and can access healthcare, education and public funds. They can also travel in and out of the UK and apply for citizenship. However, pre-settled citizens cannot bring family members to join them.

Since the EUSS opened, **56.1% of applicants in Wales have been granted settled status** up to 30 September 2022 and **35.9% have been granted pre-settled status**.

Unsuccessful applications are also reported. From Wales, 4.0% were refused (4,310 concluded applications), 2.0% were withdrawn or void (2,180 concluded applications) and 2.0% were invalid (2,130 concluded applications).

The infographic below shows the percentage and number of applications from Wales. It shows whether they were received before/after the deadline, whether they received a decision ("concluded") and the outcome of applications for European citizens in Wales up to 30 September 2022.

**EUSS applications from Wales by date, concluded applications and outcomes by percentage and number:**



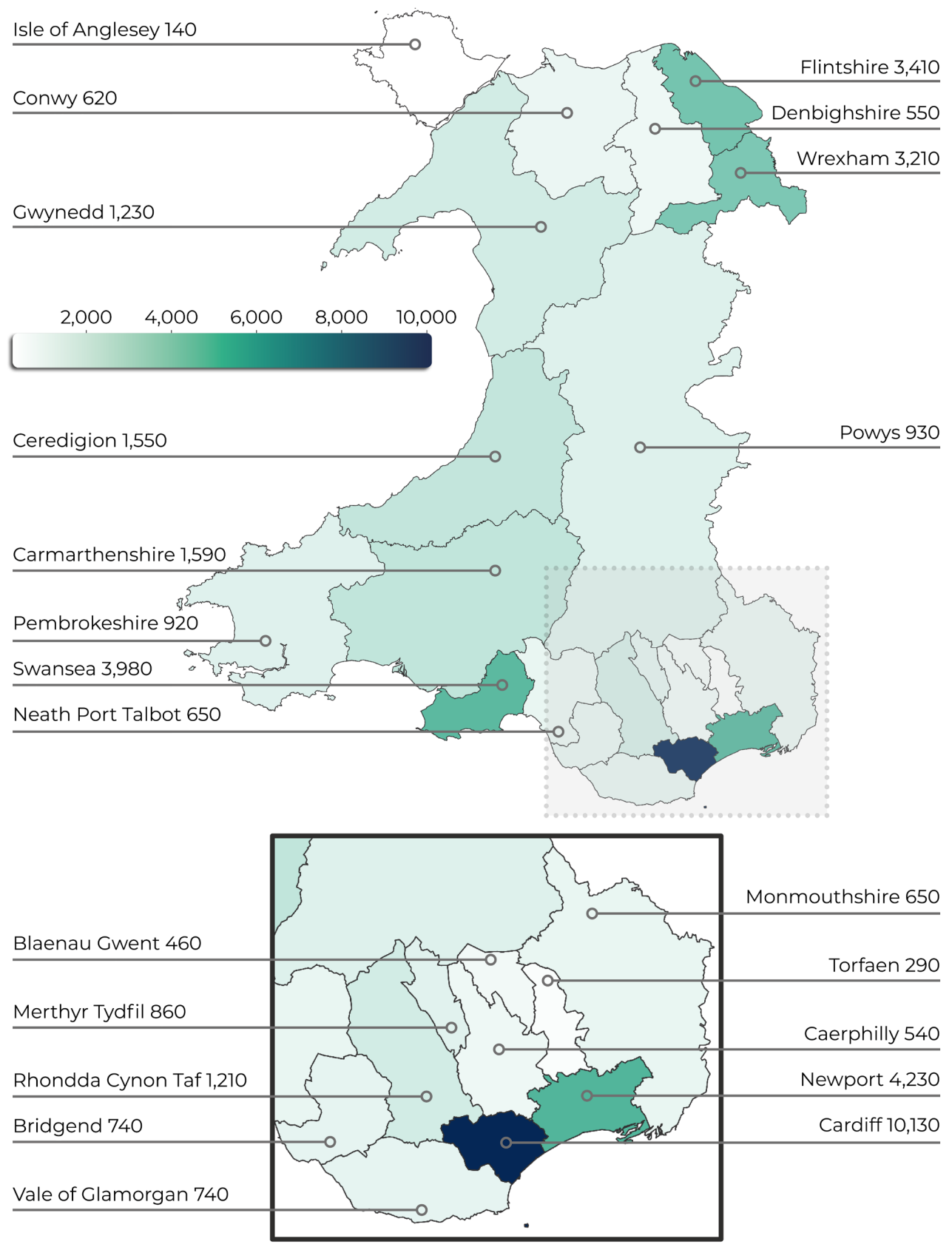
Source: UK Government **EU Settlement Scheme quarterly statistics, September 2022**

Numbers are rounded to the nearest 10 therefore breakdowns may not match overall totals.

### 3. Pre-settled citizens: second application to stay

Pre-settled status expires after five years and must be converted to settled status via a second application. This means that the 38,610 citizens who have been granted pre-settled status and want to stay in Wales beyond its expiration will need to apply again.

The map below shows the number of pre-settled citizens in each Welsh local authority area:



## Converting pre-settled status to settled

The number of those applying to convert their status from pre-settled to settled status are captured in UK-wide statistics on repeat applications.

These show that 437,720 pre-settled citizens have moved to settled status. Information by UK nation is not provided. This means we do not know how many applications have been received from pre-settled citizens in Wales trying to convert their status.

Failure to reapply results in the automatic loss of a person's right to work, access housing, education and benefits, and they could be liable to removal from the UK.

## Automatic loss of rights ruled as unlawful

The body responsible for monitoring European citizens' rights in the UK, the Independent Monitoring Authority (IMA), believes that this automatic loss of rights is unlawful because it breaches the UK's agreements with the EU and other European countries. IMA initiated judicial proceedings against the UK Government in 2022.

On 21 December, the High Court ruled that the requirement to make a second application to upgrade to settled status is unlawful.

Following the ruling, the IMA, issued a press release stating that:

Currently all citizens with pre-settled status must apply for settled status after they have lived in the UK for five years. If they do not apply, they will lose their residence rights in the UK under the current system. This means they will also lose rights dependent on this, including the ability to work in the UK, receive healthcare and education and apply for housing and benefits.

In the judgment which was handed down on 21 December, Mr Justice Lane ruled that a right of residence can only be lost in very specific circumstances which are clearly defined in the EU Withdrawal and EEA EFTA Separation Agreements.

A loss of rights for failure to upgrade from pre-settled to settled status was not one of those circumstances, and so by imposing a requirement to upgrade residence status the Home Office was acting unlawfully. The judge also said that those granted pre-settled status are entitled to reside permanently in the UK once they have resided there for the required five-year period.

The press release also states that the UK Government is seeking to appeal the decision.

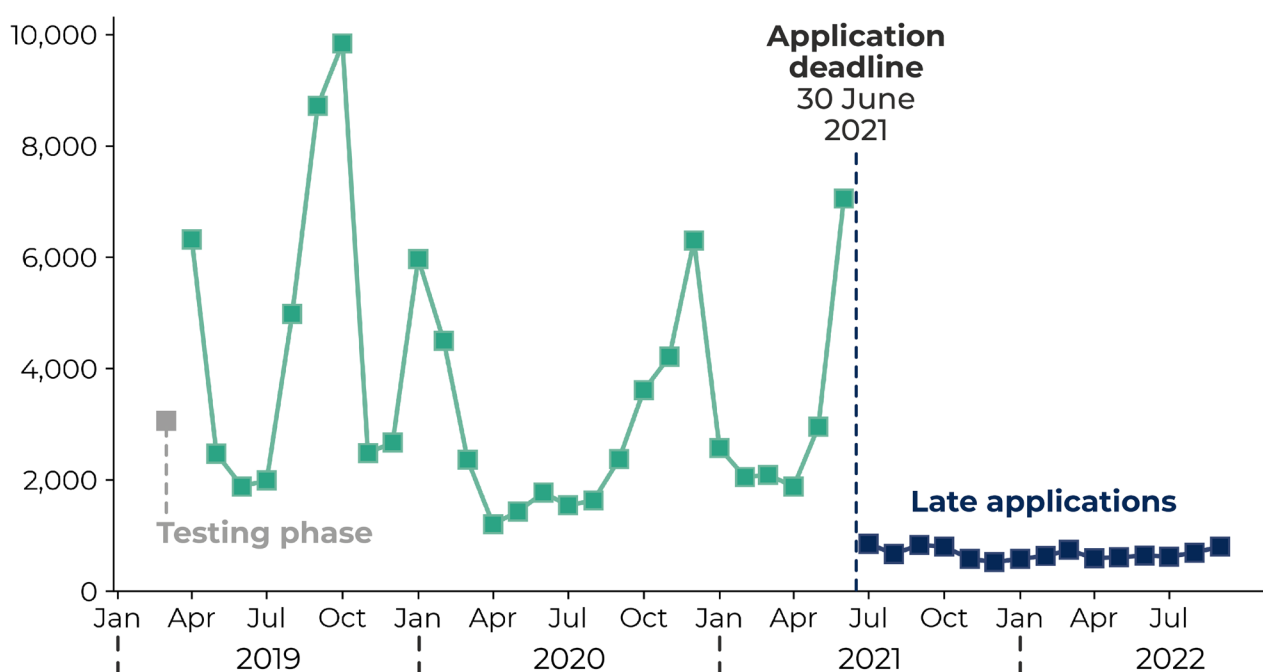
IMA advises that while the judicial process continues, pre-settled citizens should continue to make a second application to convert to settled status when they become eligible.

## 4. Late applications

The EUSS remains open to receive late applications, which are allowed if a person has reasonable grounds for missing the deadline. Examples include where a parent has failed to apply on behalf of a child or where a person has a serious medical condition. The UK Government has promised to protect the rights of those with reasonable grounds for missing the deadline.

The number of late applications from Wales increased to 10,150 at the end of September from 8,040 at the end of June 2022. Monthly statistics show that late applications increased to 800 in September from 690 in August and 620 in July, as shown on the graph below.

### EU Settlement Scheme monthly applications received in Wales



Source: UK Government EU Settlement Scheme quarterly statistics, September 2022

## 5. No application

If a person has not applied to the EUSS and they come into contact with UK authorities, they will be issued with a 28 day notice to apply. The UK Government says that people who have not applied after the 28 day notice period will not be eligible for work, benefits or services and will not pass tenancy checks.

They may be liable for enforcement action, although the UK Government emphasises that deportation will not be automatic.

## 6. Ukraine

As part of the measures taken in response to the Russian invasion of Ukraine, the First Minister asked the Prime Minister to extend the deadline for EUSS family permit scheme to allow Ukrainian family members of eligible European citizens to come to the UK. The scheme was not extended beyond its 29 March 2022 deadline. After this, the 'reasonable grounds' criteria, applicable to late applicants, applies.

The EUSS statistics show that 13,860 Ukrainians had applied to the EUSS up to 30 September, with 13,530 having received a decision. Information by UK nation is not available.

## 7. Next steps

In addition to its ongoing work on the EUSS in Wales, the Committee agreed in January 2022 to routinely:

- publish regular monitoring reports on European citizens' rights in Wales, available on the Senedd's website; and
- share its reports with the Independent Monitoring Authority.