

## **Immigration briefing FAQs – 25 January 2017**

### **1. Are original documents required to be submitted when making an application for a Residence card?**

Yes, original documents are needed. Photocopies are not acceptable and the UKVI are unlikely to approve your application without the sight of original documents. It is advisable to ensure that copies of all documents are taken prior to submission for your own record. If you receive bank statements or payslips in an online format, you are required to ask the issuer to stamp each page and sign/date it to confirm it they are authentic.

### **2. How much is the premium, same day service?**

The same day service is only available to those making an EEA (QP) application. The normal £65 application fee applies and you may receive a fee waiver for the same day service.

### **3. Is a registration card valid for five years?**

A registration card is issued for a period of five years in total and will be issued from the first date that the qualifying period can be proved e.g. in your EEA (QP) application.

### **4. Is there a minimum earnings threshold?**

There is nothing in the regulations that states a minimum earnings threshold. The regulations require that an applicant can demonstrate whether he or she is a 'qualified person' as a worker, student, self-employed or self-sufficient person.

### **5. If an individual has a contract for services, e.g. for 10 weeks, would the applicant be deemed to qualify as a worker?**

The applicant would be deemed to be a worker if they had a contract for services for 10 weeks. However, of importance is what happens to the status of the applicant after the 10 week period as the individual must demonstrate that they would remain a qualified person.

If an individual is out of work for a period, this will not break the qualifying period provided that the applicant can demonstrate that they are actively looking for work or are self-sufficient during that period.

### **6. Does a permanent residence application need to be made prior to making an application for British citizenship?**

With effect from 12 November 2015, an application to obtain a permanent residence document must be made and approved, before an individual can apply for British Citizenship. Without this, an application for British Citizenship will be refused.

The cost of applying for British Citizenship is £1236 and the fee will be lost if the application is made in the absence of a permanent resident document.

### **7. Is there any benefit for applying for British Citizenship rather than permanent residency?**

This very much depends on an individual's circumstances and therefore could only be considered on a case by case basis.

However, if an individual has children, an application for British Citizenship may be beneficial as such rights may apply to dependent children.

If an individual obtains permanent residency and leaves the UK for a continuous period of two years or more, their permanent residency would be lost and they would have to reapply to enter the UK as a returning resident however, this would not be the case with British Citizenship.

British Citizenship also confers voting rights on the individual whereas permanent residency does not.

#### **8. What are the benefits of a permanent residency?**

Holding permanent residency proves an EEA citizen's rights in the UK and also means that having held permanent residency for a minimum period of 12 months, an individual can make an application for British Citizenship if they wish to acquire a UK passport.

#### **9. Is there any reason to evidence more than six years residence in the UK when applying for permanent residency?**

No, although it may be helpful if you want to demonstrate that you have been working for the full duration of that time. However, this is not relevant to the application – when considering an application the Home Office only need to see evidence of having lived and been a qualified person for a continuous period of at least five years. Continuous means you have not been outside of the UK for more than six months in a twelve month period.

#### **10. How many years residence would a spouse making an application have to evidence?**

The same qualifying period would apply – therefore the application would need to demonstrate that the spouse and the applicant had been living together for five years.

#### **11. How do you apply for a permanent residency card?**

This can be done either by a paper based application using form EEA (PR) or an online application form.

There is also a requirement to detail all travel outside of the UK for the five years qualifying period which requires providing the most accurate account possible.

#### **12. Do you need to provide dates or evidence of travel in the qualifying period?**

No documentary evidence is required, however dates and destination of travel is required for the full five year qualifying period.

#### **13. Is it true that absences of less than 20 days will not be considered by the Home Office?**

That is incorrect – the Home Office consider every absence from the UK, therefore it is important that the application shows all absences. The only exception to this is where an individual leaves the country on one day and returns on the following day there will be no days absent from the UK.

#### **14. What documentary evidence should be provided with the application to prove residency in the UK?**

It is recommended that a variety of documents are provided, which should include two different sources of documents per year of the qualifying period, i.e. in total there should be at least 10 documents.

Such documents could be any of the following:

- Bank statements
- Council tax bill
- Mortgage/tenancy agreement
- Utility bills
- Phone bills
- Written communication from GP/Hospital
- TV Licensing bills
- Written communication from HMRC
- P60
- Written communication from your employer

It is important that a minimum of two different documents are provided for each year of the qualifying period.

It is useful to provide a cover letter if there is any additional information to be provided or any missing information on the application form.

**15. Can I provide the same two documents for every year of the qualifying period?**

It is important to provide a variety of documents, however, if this is not possible then it is advisable to provide the documents you have at the very least and provide a cover letter to explain the reasons you cannot provide the required supporting documents.

**16. Could one document cover multiple years?**

Yes, a document could be used as evidence for multiple years, e.g. a tenancy agreement for two years could be used as evidence for two years residency in the qualifying period as long as it indicates the dates in question.

**17. I live in shared accommodation and therefore have very few bills in my name. What other documentation can I provide?**

As stated in question 14 (please see above), a number of different sources could be provided. A contract of employment could be submitted as evidence or it should be possible to ask your bank to confirm when you opened your account and your address details. As an employer the HMRC will also have sent documentation to you and you would have received annual tax statements in the form of a P60 which usually confirms your address.

**18. Do two documents for each qualifying year need to be provided for each family member?**

If the family member is applying as a dependent of the applicant, then the onus is on the applicant to provide evidence to prove their residency for the qualifying period.

If the family member is applying independently, then they will need to provide additional information, i.e. two documents for each qualifying year.

**19. Can multiple bank account details be submitted as evidence?**

Yes, multiple bank account details can be provided as the evidence is from different sources.

**20. If I am working in a casual teaching position, i.e. without a contract, how can I provide this as evidence of work?**

You should request a letter from your employer. Whilst a letter from your employer is not mandatory, it could be provided if you do not have a P45/wage slip.

**21. Is it advised that EU citizens living in the UK should take one of the routes of either applying for permanent residency or British Citizenship?**

This is very much a personal decision and therefore should be considered on a case by case basis. However, given the uncertainty surrounding what will happen once Article 50 is triggered (anticipated to be in March 2017), it may be advisable for those individuals who have the required documents to make an application for permanent residency.

**22. If I have had a period of long term sickness, how do I demonstrate the qualifying period?**

There are specific regulations that govern this and therefore individual advice would need to be taken to determine how to proceed. Under regulation 6 (2) (a) a person who is no longer working shall not cease to be treated as a worker if temporarily unable to work as the result of an illness or accident.

The alternative option would be to wait until a five year qualifying period had been accrued with no long term sickness and make the application based on that five year period.

**23. Once Article 50 has been triggered, will it be a two year period before the UK leaves the EU?**

Once Article 50 has been triggered, it runs for two years which is the maximum period the UK will have to leave the EU. We have no control over extending it and it will be the other member states that can decide whether there is an extension or not.